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TREATISE¹⁻²
ON
GOVERNMENT;

SHEWING,

That the RIGHT of the KINGS of
SCOTLAND to the Crown was not

Strictly and Absolutely

HEREDITARY.

GAINST

The Earl of *Cromarty*, Sir *George Mackenzie*
the King's Advocate, Mr. *John Sage* stiled
The Cyprianick Doctor, and the learned
Antiquarian Mr. *Thomas Ruddiman*.

BY GEORGE LOGAN, A. M.

One of the Ministers of *Edinburgh*. <

EDINBURGH

Printed, and sold by the Booksellers here, and at *Glasgow*,
M. DCC. XLVI.

TREATISE
ON
GOVERNMENT

SHOWING

That the RIGHT of the KING of
SCOTLAND to the CROWN was not
strictly and absolutely

HETTERED BY A R. Y.

AGAINST

The Earl of G. George Mackenzie
the King's Advocate, Mr. John Sage filed
The Opposite Doctor, and the learned
Antiquarian Mr. Thomas Ruddiman.

BY GEORGE LOGAN, A.M.

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M.DCC.XLV.

TO
The Right Honourable,
THE
Lord SOMERVILLE.

My LORD,

THE Opinion, that the Right to the Crown of *Scotland* is strictly hereditary and indefeasible, is the favourite Principle of too many of our deluded Countrymen. It has been carefully propagated among old and young, Men and Women of late with great Success. The trafficking Adherents and Friends of a Popish Pretender to the Crown, have been unwearied in their Attacks upon Families, to their great Disturbance and unhappy Division, so that Persons, who otherways would have been good and peaceable Subjects to King *George*, have their Judgments greatly puzzled, and their Consciences held in Bondage about his Right. Others are seduced into Disaffection to his Majesty's Person and Government, and have risen up in open Rebellion, without the least Shadow of Provocation given them, by his Administration, tho' his Right be as unquestionably good, as that of King *Robert Bruce* was: For if our Ancestors denuded the *Ba-*
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liols, because of their paying Homage to the King of *England* for the Kingdom of *Scotland*; what is it that could hinder the States of *Scotland*, at the Revolution, to lay aside King *James VII.* when our fundamental Constitution, our Laws, Liberties and Privileges, Religious and Civil, were in the utmost Danger of being intirely subverted. This Principle of our *Jacobites* is of so great Moment and Importance to them, that they, to promote the Interests of the Pretender, have sacrificed their Lives and Fortunes, perjured their Consciences, and scruple not, tho' they profess themselves to be Protestants, to run the Risque of their holy Religion to serve his Cause; and tho' they dispute his Right to the Throne, yet they did own the Mildness of his Government, till now that some necessary Severities are used upon some of them.

My Lord, my Intention is, if it is possible, for their own private Good, and that of the Publick, to set them right upon the Head of Principle, as to the Regal Government of *Scotland*. Sir *George Mackenzie*, in his *jus regium* (a), "admires how *Buchanan* should
 "have attempted upon a Debate in Law, not
 "being a Lawyer, and writing upon that Sub-
 "ject, without citing one Law, Civil or Mu-
 "nicipal." But, as this is not true in Fact, since in his History, he mentions all the par-
 liamentary

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liamentary Deeds, with respect to the Succession of our Kings, that had been made down to his own Time; and likewise, both in his *jus Regni* and his History, he shews the Nature of the legal Power and Authority, that it was ever limited and conditional, but not absolute; it must then be more surprising and wonderful in Sir George, who undertakes to confute *Buchanan*, that he cites only such Statutes as were but late, and not extant in *Buchanan's* Time, and consequently *Buchanan* cannot be redargued by them. This Objection Sir George had formed against himself (a); but his Answer is a most pitiful Evasion (b).

I am well apprised, that it will be objected to me, a Clergyman, that I go beyond my Province, by interposing in this Dispute. But since the Matter of the Succession of our Kings is to be cleared up from our Annals and Acts of Parliament, and no otherways; all that is required in a Writer on this Subject, is Truth and Faithfulness, in giving the History of them, and then as to the absolute Power of the Prince, which Sir George contends for. I am a free-born Subject, and will never degrade myself to be a Slave, but will stand up for the Defence of my Liberty, even against the grand Advocates for the absolute, indefeasible, irresistible, hereditary Right of the King

Kings of *Scotland*, even these great Names, the Earl of *Cromarty*, Sir *George Mackenzie*, Messrs. *Sage* and *Ruddiman*, tho' *impar congressus* may be alledged; and I submit my Performance to the critical, but fair and candid Examination of any that has a Mind to make a Reply.

I am aware, that there is no convincing the *Jacobites*, unless it be shown, 1st, That there is no Foundation in our Constitution for the indefeasible hereditary Right of those, who at any Time came to sway the Scepter over this Nation. And, 2^{dly}, that there is no Divine Constitution establishing monarchical hereditary Government, so as to be binding upon all Nations, exclusive of all other Forms of Civil Government; for whatever the Form of Government is, that Men have established, agreeable to the Dictates of right Reason, so as to answer the valuable Ends of it; it draws after it the Divine Approbation, and it is of GOD. As to the latter of these, I intend a separate Treatise against the pretended Divinity or *Juredivinoship* of Kings, exclusive of all other Forms of Civil Government: All that I shall say at present is, that I can never be brought to be of the Opinion, that GOD intended there should be an hereditary indefeasible Succession of Kings as his Ordinance, unless he would endue them with hereditary Wisdom, Justice, Goodness, and all other neces-

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necessary Qualifications for right Administration of the Government; and since it is certain, that this was never the Case in any Part of the known World, and particularly in *Scotland*; for the *Chronological Table* of our Kings, licensed by King *Charles II. anno 1681*, gives us an Account of no less than a Dozen of our Kings, who are noted to have been cruel Tyrants; these our Ancestors controuled and resisted, some of them they dethroned, and others they put to Death; so that the Regal Government was not indefeasibly hereditary.

That therefore, my Lord, which I am to pursue in this Treatise is, That the Succession of our Kings to the Crown was not by an hereditary indefeasible Right; not that I refuse that there has been in *Scotland* a Succession of Kings in a direct Line, for a considerable Time, from Father to Son; but yet I am capable to demonstrate, that Proximity of Blood was not regarded in many Cases. It is certain, that the Government of *Scotland* at first was aristocratical, by the Chiftains and Heads of the Tribes, and that afterwards it became monarchical: By the Agreement and Determination of the Tribes, *Fergus I.* was made King; but, upon his Death, his two Sons being young, and unfit for the Government, the Magnates, *i. e.* the great Men, laid down a Plan for the Succession, that it should not

not go by Proximity of Blood, but by Ability and Qualification for Government; and accordingly *Ferlegus*, the eldest Son of *Fergus*, did not succeed, but *Feritharis* his Father's Brother; and the foresaid Law continued in Force, till the Days of *Kenneth III.* during which Time the Monarch was elective, but in the Royal Blood, as Sir *James Dalrymple* expresseth it (a). *Kenneth* abrogated this Law, and made it successive in his Family, but yet his Son did not immediately succeed; nay, not till *Constantine* the Son of *Culen* and *Grimus* both had reigned; this is another Interruption of the hereditary Right. Again, from *Fergus II.* there were many Interruptions of the lineal Succession, by Usurpations and cross Elections; so that I make no Scruple to assert, that from *Fergus I.* to *Fergus II.* and from him again to *Robert I.* the Succession has been interrupted every two or three Generations; for the Verification of which I have appealed to several Chronological Tables, especially that which was licensed by *Charles II.* and here I also refer to that, which we have in *Harrington's Oceana*. I have likewise made it evident, 1. That some of our Kings were raised to the Royal Dignity, not because of Proximity of Blood, but because of their eminent Virtues qualifying them for Government. 2. That Bastards have

(a) Coll. p. 100.

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have been Kings of *Scotland*; these surely had no hereditary Right. And, 3. That when the reigning King died without Male-issue, Females, who had the Proximity of Blood, were secluded from the Succession.

The next Interruption of the hereditary Right was made, by a Convention at *Air* of the States, *anno* 1315, who declared *Robert Bruce* (the Grandson of that *Robert Bruce* that competed with *Baliol*) King, notwithstanding *Edward* King of *England* had, according to the Custom of *Scotland* in other Heritages, determined in favours of *Baliol*, who had the hereditary Right. And that this *Robert* might be firmly established, one of your Lordship's Ancestors signalized himself in a particular Manner.

That I may shew how your noble Ancestors came so early to be interested and concerned in the Royal Family, I must go back to the first of your Name in *Scotland*. *Wilhelmus de Somerville*, a Gentleman descended from a *Norman* Family, the *Sommervilles* of *Wishnore*, came over to *England* with the victorious Duke of *Normandy*. This Gentleman got into the Favour of King *David* I. at the Court of *England*, while he was but *Comes Cumbriæ* (Earl of *Cumberland*) in the Lifetime of his two elder Brothers, King *Edgar* and King *Alexander*. Upon King *David*'s Accession to the Throne, *anno* 1124,

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he accompanied him to *Scotland*, and by his Bounty had two very considerable Baronies bestowed upon him, to wit, *Lintoun* in the County of *Roxburgh*, and *Carnwath* in the County of *Lanerk*. Sir *James Dalrymple* (a) informs us, that the *English* Antiquaries think, that the Use of Surnames heritably affixt to Families in *England*, had its Rise from the *Normans*; and he himself is of the Opinion, that it is very probable, that King *David*, from the Example of *England*, brought Surnames into *Scotland*, by planting some Families of the *Norman* Extract, as the *Morvilles*, *Umfravilles*, and *Somervilles*.

Willielmus de Somerville the 6th Baron of your Lordship's ancient Family, with most of the Barons of *Scotland*, by reason of the great Success and heavy Oppression of *Edward I.* of *England*, was compelled to submit to him, and swear Fealty to him, as the Superior of *Scotland*: But it seems he did not think the Oath binding, for soon afterwards, he was one of those brave and noble Patriots, who went in with the glorious Design of retrieving the Liberty and Honour of their Country: For when King *Robert Bruce* took the Field, and threw off the Yoke, he and other Adherents to him, never put up their Swords, till the King of *England* was obliged to renounce all that Claim, which his Predecessors made

to

(a) Pref. Coll. P. 61.

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to the Sovereignty over the Kingdom of Scotland. Sir *James Dalrymple's Coll.* p. 394 and 395, informs us, "That, in the Reign of King *Robert Bruce*, *Carnwath*, a Part of the Estate of your Lordship's Family, was in the Possession of the *Bairds*, who were forfeited for their Adherence to *John Baliol*, and that the Lands of *Carnwath* were granted by the King to Sir *Alexander Stewart*, probably the Person afterwards created Earl of *Angus*." But Sir *James* gives no Vouchers of this: He says, It is not certain, how the *Somervilles* came to want *Carnwath*; and a little after, that in the Reign of King *David Bruce*, *Thomas de Somerville* returned to the Possession of it. I am, my Lord, at a Loss to explain this Narration, but possibly your Lordship can do it, from the Memoirs of your Family, writ by a curious and ingenious Gentleman, *James Somerville* of *Drum* your Great Grandfather.

His Son, Sir *Thomas Somerville* the 7th Baron, adhered to King *David II.* when in his Minority; the *English* renewed their Claim to the Sovereignty, and with their Strength contended for the Interests of *Edward Baliol*, the Son of *John Baliol*, who had the Right. King *David* was afterwards taken Prisoner in the Battle of *Durham*, anno 1346. But this Sir *Thomas* was one of the *Magnates*, (the great Men) who set on Foot a Treaty for the King's

King's Redemption. Mr. *Rymer* acquaints us in his first Letter to the Bishop of *Carlisle*, that on the 3d of *October*, anno 1357, all the Articles of the great Treaty, for the Deliverance of *David Bruce*, were concluded at the Town of *Berwick* upon *Tweed*, that his Ransom was to be 100,000 Merks *Sterling* to be paid in Ten Years Time; and that for the Security of the several Payments, 20 Hostages were to be given. *William* the Son and Heir of Sir *Thomas* is the 12th in the Order they are mentioned, and is set down before the Predecessors of the Earl of *Weemys* and Lord *Gray*. Sir *Thomas* having an opulent Estate, was able to advance considerably for that End; for besides the Baronies of *Lintoun* and *Carnwath*, his patrimonial Estate, he acquired the Baronies of *Gilmertoun*, *Drum* and *Goodtrees*, by his Marriage with *Egidia* the Daughter of Sir *John Herring* of *Edminston*.

The said *William* the eight Baron lived in the Reign of King *Robert II.* and married *Augusta*, one of the Daughters and Co-heiresses of *Manuel de Eodem*, and had by that Marriage the Half of the Barony of *Manuel*, in the County of *Stirling*; this was a good Addition to his Estate. The Accession of *Robert II.* to the Crown, (when this Baron lived) was certainly an Interruption of the hereditary Right, for *William* Earl of *Douglas* had

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had the Proximity of Blood, as descending from both the *Baliols* and *Cummings*; but that he might quit his Pretensions, *Robert* found it necessary to bestow one of his Daughters in Marriage upon *James*, the Son of this Earl the Competitor, that failing his Heirs-male, the Crown might then fall to the said *James* and his Heirs-male.

The 9th Baron was *Thomas de Somerville*, who was pitched upon, with others of the first Rank, to transact the Ransom of King *James I.* with the Court of *England*, no less than 40,000 Pounds were demanded; for the Payment of which, from the Burghs of *Edinburgh*, *Perth*, *Dundee* and *Aberdeen*, four obligatory Letters were delivered; this is told us by Mr. *Rymer*, Tom. 10. p. 301. He likewise had the Honour to be sent up to *Durham*, with other great Men, to wait of the King and his new married Queen, in his Return to *Scotland*, and had from him the Honour of Knighthood for the Splendor of the Coronation, April 20th 1424. He, anno 1391, married *Janet*, Daughter of Sir *Alexander Stewart* of *Darnley*, from whom the Earls and Dukes of *Lennox* descended, and Lord *Darnley* the Husband of our Queen *Mary*: By this Marriage he acquired the Fee of the Barony of *Cambusnethan* in the County of *Lanerk*. King *Robert III.* tho' a Bastard, succeeded to the Crown in the preceeding Year,

Year; by this Means *James* Earl of *Douglas* was kept out, as his Father *William* had been before him: But besides, *Eufemia* *Rofs* being the first Wife of his Father *Robert* II. her eldest Son had the Proximity of Blood; but *Robert* II. having a greater Affection to the Children of *Elisabeth* *Muir*, than to those of *Euphemia* *Rofs*, got *John* (afterwards *Robert*) her eldest Son declared to be the true lawful Heir to the Crown, by Act of Parliament, and did actually succeed anno 1390. Your Lordship will observe in the *Treatise*, that tho' all our Historians prior to *Buchanan*, to wit, *Fordun*, *Boethius* and *John* *Major*, *Lesley* Bishop of *Rofs*, his Co-temporary, and *Hauthornden* after him, with *Hollinshead* and *Saunderson*, *English* Historians, relate the Bastardy of *Robert* III. yet the Earl of *Cromarty*, Sir *George* *Mackenzie*, Messrs. *Sage* and *Ruddiman* alledge this to be Falshood and Scandal, and charge them, as the Authors and Propagators of it, tho' to this Day none have been able to shew, that they had any Turn to serve thereby. To make out this heavy Charge on such learned and celebrated Historians, they have adduced several Charters, particularly the *Parisian* Charter, which *Mabillon* in his *Treatise*, *de re Diplomatica*, gives us to prove, that *Elisabeth* *Muir* was King *Robert* II's first Wife; and therefore conclude, that it is as clear as the Light of Noon-

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Noon-day, that their Narration is a Contrivance and Forgery. This Charge has been suffered to pass current for above sixty Years, without any Reply offered to it ; and because of this Silence, our *Jacobites* and High-flyers have triumphed over our Historians, and constructed it as a Concession, that what the foresaid Authors have writ, is unanswerable. I indeed think it strange, that none of our Historiographers or Professors of History have undertaken to write a Defence of them ; for what will the World think of the History of *Scotland*, if our best Historians, and all of them, are Forgers to a Man ? I have therefore applied myself to examine this Charge, and the Grounds upon which it is founded, tho' none has gone before me in this Task ; I have done it as impartially as I can, and now I submit it to the Judgment of our historical Criticks.

Sir *Thomas Somerville*, one of your Lordship's Ancestors, was named with some other Barons of the first Rank, on the Jury for the Trial of *Murdoch* Duke of *Albany*, for High Treason, for which he was put to Death, *anno* 1427. Mr. *Crawford's* History of the Family of *Stewart* (a), sets down their Names, and, in the Order he placeth them, I find that Sir *Thomas* is mentioned before *Hay* of *Yester*, now a Marquis, and three Knights,

(a) P. 23.

Knights, afterwards raised to be Earls, and other three Knights advanced to be Lords.

Thus, my Lord, I have given an Account of several of your Ancestors, when they were in no higher Rank than that of Barons, from the Year 1124. to the Year 1427, which fully proves the Antiquity of your Family, to which I was led from the Part they acted, in some Interruptions made to the pretended and much boasted of hereditary Right of above an hundred of our Kings, from which it evidently appears, that Proximity of Blood was not always regarded in the Succession of our Kings. It is a Pity that these few Things of the many concerning your ancient Family, which I have past over, have not been published before now, since they can be documented by the best Vouchers: Your Lordship's Excess of Modesty has been injurious to the Publick, by keeping them in Obscurity. It has, my Lord, been justly judged an useful Work to describe the great and eminent Families of a Kingdom or Nation, and to narrate their great Services, and worthy Actions for promoting the Peace, Safety, Prosperity and Honour of it, and to document them from authentick Records, Charters and other Writs, this being a most notable Help for compleating the History of a Kingdom or Nation in general.

And

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And now that I have proceeded so far in the historical Account of your Lordship's Ancestors, I should be injurious to the Publick if here I did stop : I shall therefore go on, without asking your Lordship's Permission, (forgive me, my Lord,) to narrate several things worthy to be remarkt, and to be known, concerning your Family, after it was raised to the Peerage.

William, the last Knight of your Lordship's Family, was one of the great Barons by Tenure whom King *James* the I. of *Scotland* raised to the Honour of Peerage, by creating him a Baron Banneret, and a Lord of Parliament, by the Title, Lord *Somerville*, by Cincture and Belting, *anno* 1427. The Author of a curious Manuscript, entituled, *De jure prælationis nobilium Scotiæ, i. e.* Concerning the Right of Precedency of the *Scottish* Nobility, in the great and curious Library of the late Lord *Royston*, observes, that the Nobility of *Scotland* were not created by Patent, as now, but the old Way of Creation was by some extrinsic Solemnity or Rite, such as girding them with a Belt in Parliament, or other publick Assembly, or by listing them in the publick Rolls by the Titles conferred upon them, or designing them so in the Charters and Evidents of their Lands. This Order of Nobility the said King *James* set up *anno* 1427, when, by Act of Parliament, the Attendance

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tendance of the small Barons on the Parliament was dispenced with: For Proof of this there is an Act and Decreet of Parliament engrossed in a Charter under the Great Seal in the publick Archives, dated *March 27th, anno 1429*, two Years after, at the Instance of *Margareta de Craigy*, against *Philip Moubray of Barnbogle*, touching the Lands of *Leuchald*, in the Preamble of which the Names of Prelates, Earls, and Lords of Parliament, are set down, *viz. the Constabulary, the Marshal, the Domini de Abercorn, de Dalkeith, de Erskine, de Lockou, de Gordon, de Dirleton, de Sommerville, de Maxwell, de Montgomery.* The most of these since that Time, have been raised to a higher Degree and Rank of the Peerage, but in the said Year 1429 he was on the same Level with them. Sir *James Dalrymple* labours under a Mistake, when he says (a), "That your Lordship's Predecessor" "was created Lord of Parliament in the Reign" "of King *James II.*" The contrary is clearly made out by the-foresaid Act of Parliament. This Lord *Sommerville* was constituted Great Justiciary of *Scotland* be-south the River *Forth*. He was alive *anno 1436*, when the Earl of *Athol*, the King's Father's Brother by *Euphemia Ross*, conspired against the Life of King *James I.* the Ground of his Quarrel was no less than his Claim to the Crown. I chuse

(a) Coll. p. 394.

chuse to represent it in the Words of *Drummond* of *Hatbornden*, because they confirm the Narration of *Buchanan*, and our other Historians ; surely this celebrated Historian and Poet would not relate Falseness and Scandal against the Royal Family, nor transmit to Posterity such a heavy Imputation, unless he thought it true in Fact : Would he take it up without due Examination, he who was greatly attacht to the *Stewartine* Line ? Any that will read his History of the five *Jameses* will not say it. His Narration is as follows : “ The Earl of *Athol* alledged, “ that his Brother and he were procreated by “ *Robert II.* on his first Wife *Eupheme Ross* ; “ and therefore ought and should have been “ preferred to the Succession of the Crown, “ before King *John* (named *Robert*) and all “ the Race of *Elisabeth Muir*, who was but “ his second Wife, and next them, but Heirs “ to King *Robert II.* They were the eldest “ Sons of King *Robert* after he was King ; “ *John* and *Robert* being born, when he “ was but in a private State, and Earl of “ *Stratherne* : For it would appear, that as “ a Son born after his Father hath lost his “ Kingdom, is not esteemed for the Son of “ a King, so neither is he that is born before “ the Father be a King. These Reasons he “ thought sufficient, the King taken away, “ to set him in the Room of State ; but con- “ sidered

"sidered not how sacred the Name of *King*
 "is to the *Scottish* Nation, how a Crown
 "once worn, quite taketh away what De-
 "fects so ever, and that it was not easy to
 "divest a King in present Possession of a
 "Crown, who had his Right from his Fa-
 "ther and Grandfather, with the Authority
 "of Parliament approving his Descent, and
 "secluding all others: Less came it in his
 "Thought, that these Children are legiti-
 "mate and lawful, which cannot be thrust
 "back and rejected without troubling the
 "common Peace of the Country, and o-
 "pening a Gate to foreign Invasions, dome-
 "stical Disturbances, and all Disorders, with
 "an unsettled Course of Succession, the
 "common Error making the Right or
 "Law (a)." Nay, my Lord, *Hauthornden*
 gives us a long Discourse, and a very ner-
 vous one, as if it had been delivered to the
 Conspirators by *Athol* himself, wherein all
 the Grounds of *James's* Title, as the Son of
Robert III. are answered with a great deal of
 strong Sense, which shews that *Hauthorden*
 had duly examined this remarkable Part of
 our History, he gives us an Account of the
 just Severities that were executed on the Re-
 gicides: And no doubt the Lord *Sommer-*
ville, High Justiciary of *Scotland* be-south
 of the River *Forth*, acted as a Judge in the
 Trial,

(a) *Hathorn. Hist. Jam. I. p. 14.*

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Trial, as formerly he had been one of the Jury on *Murdoch* Duke of *Albany*. This Lord died *anno* 1445, and left two Sons, *William* his Heir, and *Thomas*, to whom he gave in Patrimony the Lands of *Rokelly*, which Accession to the Estate I had not noticed before: He likewise left five Daughters, who were all honourably married. *Mary* the eldest to *Hay* of *Yester* now Marquis of *Tweddale*; *Janet* the second to *Archibald Campbell*, Heir apparent of *Duncan* the first Lord *Campbell* of *Lochow*, Mother to the first Earl of *Argyle*; *Egidia* to Sir *Robert Logan* of *Restalrig*; *Catharine* to Sir *John Sandilands* of *Calder*, afterwards Lord *Torphichen*; and *Elisabeth* to Sir *Philip Mowbray* of *Barnbogle*.

The second Peer in your Lordship's Family was *William* Lord *Sommerville*, who in the Year 1449 was one of the Conservators of the Truce with *England* on the Part of *Scotland*, with several Earls and Lords of Parliament: He married *Janet*, Daughter and sole Heir of Sir *John Mouat* of *Stenhouse*; by this Marriage a new Accession was made to the Estate; so that at this Time, it was one of the greatest in the Kingdom: He died *anno* 1456. *John* the third Lord *Sommerville*, in a Treaty of Peace betwixt the two Nations, is mentioned with several Earls and Lords, as Conservators and Guarantees thereof:

of: He was also afterwards one of the Guarantees in a new Treaty. He married *Helen* a Daughter of *Patrick* Lord *Hails*, Ancestor to the Earl of *Bothwell*, who was married to Queen *Mary*. I learn from *Hau-thornden's* History of King *James III.* (a), "That the Lord *Boyd* and his Brother, anno 1466, seeking an Opportunity to free the King from the Severity and Rigour of the Governour's Schooling," (this was the much celebrated *James Kennedy* Bishop of *St. Andrews* in our History) "and frame him an Escape, took the following Method; whilst the King remained at *Linlithgow*, the Lord *Hails*, the Lord *Sommerville*, Sir *Andrew Ker* of *Cosford*," (the Duke of *Roxburgh's* Predecessor) "and Sir *Alexander Boyd* agree upon a Match of hunting, and will have the King Umpire of the Game. Early in the Morning following, the Gentlemen who were on the Plot, fail not on their Attendance. The said Sir *Alexander* took the King along with him to *Edinburgh*, where at a frequent Meeting of the States, the *Kennedies* urged to have the King continued under Minority, but the *Boyd*s to take the Government in his own Person; and the Faction of the *Boyd*s prevailed." This Lord *Sommerville* died

(a) P. 42.

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died *anno* 1502, and was succeeded by his Grandson.

The fourth Peer of the Family was *John* the said Grandson, but was never married: He died *anno* 1522; his Estate and Dignity fell to his Brother *Hugh*.

Hugh the fifth Lord *Sommerville* is marked in the Rolls of Parliament, *anno* 1524. He was a Favourite of King *James V.* and accompanied him often in his nocturnal Expeditions against the Borderers, who lived mostly by Depredations. He entertained the King oft in his House of *Cowthally*, (or, as some call it, *Cowdailly*, because a Cow was killed every Day of the Year for the Use of the Family) having a very great Estate, was able to give Entertainment resembling the Court of a Prince more than the House of a Subject. At *Solway* Conflict he was with many Persons of Quality taken Prisoner, and carried in Triumph to *London*. A Ransom was put on the Prisoners of Rank, conform to their Rank: But King *Henry VIII.* proposing to them an Union of the two Kingdoms, by a Marriage betwixt his Son Prince *Edward* and our Queen *Mary*, the Prisoners promised their Assistance to bring it about. This Lord judged that the Marriage would be beneficial to his Country, as it was honourable. He agreed to the Treaty *anno* 1543; and when the Treaty was broke,

broke, he espoused the Interest of *England*, which was like to prove fatal to his Family; for he and others had signed an Association for supporting the intended Match. The Earl of *Arran*, when Regent, to fix him the more to his Interest, gave him a Right to that Part of the Temporality of the Archbishoprick of *Glasgow*, that belonged to the Crown, during the Vacancy of the See, upon the Demiss of *Dunbar* the Archbishop, anno 1552. He married *Jean* the Regent's Sister.

James the sixth Lord *Sommerville*, had been sent up to *England* as an Hostage for his Father, while his Father was forwarding the Marriage in *Scotland*. He was one of these Peers that opposed the Reformation from the Church of *Rome*. He joined with the Earl of *Atbol*, and the Lord *Borthwick*, in entering a Dissent in Parliament; they said, they would believe, and continue in the Religion of their Forefathers.

Hugh the seventh Lord *Sommerville*, was remarkable for maintaining the Prerogative in the Reign of *James VI.* and yet appeared for the Liberty and Property of the Subject, keeping a just and equal Balance between the two. He was on the Affize and Jury of the Earl of *Gowrie*, who was found guilty, and lost his Head anno 1582. This Lord being much provoked by the Folly and Insolence of

of his Son *Gilbert*, Master of *Somerville*, intended to settle the greatest Part of his Estate on a younger Brother called *Hugh*, as more likely to maintain the Dignity and Wealth of the Family, and did dispoſe to him his *Lothian* Estate, anno 1593. After this he diſpoſed to him the whole Barony of *Carnwath*; but he happened to die before he could perfect that Deed: He died anno 1597. In this Year the Lord *Somerville* is marked in a Roll of Parliament, which Roll is in a valuable Treatiſe I have, entituled, *Certain Matters concerning the Realm of Scotland, as they were* anno 1597: But it was not printed till the Year 1603; in which I find theſe in the loweſt Rank of the Nobility marked in the following Order, L. *Cathcart*, L. *Semple*, L. *Salton*, L. *Elphingſton*, L. *Gray*, L. *Ochiltree*, L. *Sinclair*, L. *Sommerville*, L. *Lovat*, L. *Rofs*, L. *Oliphant*, L. *Forbes*, L. *Borthwick*. In the ſaid Treatiſe there are four diſtinct Oaths ſet down, the Oath of a Duke, the Oath of an Earl, the Oath of a Lord of Parliament, and the Oath of a Knight.

The eighth Peer of the Family was *Gilbert* Lord *Sommerville*, who behaved very unbecoming his Rank; this his Father was afraid of. It would ſeem he had a Deſign to ſink the Family, that there might be no Memorial of it under Heaven: For as he ruined the Estate, (it is ſaid that it was apprized from him by the Earl of *Mar*, and Sir *James*

Erskine his Son, *anno* 1602, by Collusion) so he abandoned all Concern for the Honour of it. In the Commission for ranking the Nobility, *anno* 1606, he neither appeared himself, nor any Procurator in his Name, to have his Rank adjusted, though there was a Necessity for it: For in the Roll of Parliament foresaid, in the Year 1597, there are Lords marked as having the Precedency before him, to whom it did not justly belong, as will afterwards appear. In the Days of King *James VI.* Controversies did arise for Precedency, and Priority of Places, and Votes in Parliament; which were so warm, that, for Remedy, the King and Estates of Parliament, *anno* 1587, were necessitate to make an Act, which is the Act 41, narrating the said Inconveniency, and statuting, that none of the Estates shall presume in Time coming, to make Quarrel, Provocation, or Trouble to other, for the said Priority, otherways than by Supplication, till the Decision of the Controversy, under the Pain of being held as Disturbers of the Peace, and to be grievously punished, &c. After this they only protested, as appears by the 9th Act, Parliament *anno* 1604. Thereafter, in the Year 1606, the King granted Commission to some of the Nobility, and others of the Privy Council, to call before them all the Noblemen that debated, to produce such Evidents as they had for instructing their Precedency; they

DEDICATION. xxvii

they met the 1st of *March*: I have perused their Minutes, which bear the Names of these that compeared and their Evidents. The said Commission gave their Decreet of Ranking the 5th, which is subscribed *John Skeen*. The Order of the Nobility of the lowest Rank in the said Decreet is as follows, *L. Lindsay, Forbes, Saltoun, Gray, Ochiltree, Cathcart, Carleil, Sanquhair, Yester, Semple, StClare, Herreis, Elphinston, Maxuel, Oliphant, Lovat, Ogilby, Borthwick, Ross, Boyd, Torphichen*. This List differs greatly from the fore-said List, *anno 1597*.

My Lord, it is not to be wondered at, that one of your noble Family was so degenerate from the good Character of his Ancestors; this has happened to the best noble Families in all Nations, nay in Royal Families, as that of *Scotland* in particular; but I took Notice of it, because it served to account for the low Circumstances the Family of *Somerville* was reduced to. The Peerage by his Management came to be overlookt, and no Rank at all was assigned him, by the said Commission; but he lived in a mean despicable Condition, and died unpitied. The Title and Dignity fell to *Hugh Somerville*, who had the Right to be the 9th Lord *Somerville*; but because of the low Circumstances of the Family, and really out of a Whime, did not take the Title, knowing, as he said, that it was a Right of Blood, and could

could not prescribe, but might be taken up by himself, or his lineal Male Successors, when they thought fit: He died anno 1640. In Sir *James Dalrymple* his Edition of *Cambden's Description of Scotland*, anno 1695, p. 75, it is said, "*Clyde* after he hath from
 " his Spring-head with much struggling, got
 " out northward by Baron *Sommerville's*
 " House, (for he did not assume the Title
 " of Lord) called *Carnwath*, which was
 " purchased by the Family of *Dalziel, &c.*"

Hugh was succeeded by his Son *James*, who had the just Claim to be the tenth Peer of the Family; but waved his Peerage for the same Reasons his Father had done it: However, in the Civil Wars, and in the Calamities of the Usurpation, anno 1653, when King *Charles II.* was at the lowest, he joined the Earl of *Glencairn* in the *Highlands*, and had a chief Command in the Army, which sometime after was quite broke by Colonel *Morgan*. Sir *James Dalrymple*, in the foresaid Book, anno 1695, says, "That no body at
 " present claims the Dignity of Lord *Sommerville.*" Your Lordship, if born then, was very young. Sir *James* observes (a),
 " That *James*, who had the Claim to be the
 " ninth Lord, lived to a very great Age, to
 " see your Lordship, his Great Grandchild;
 " and that they were all *Jameses*, and all living at the same Time."

Thus

(a) Coll. p. 395.

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Thus it appears that the Peerage of your Lordship's Family did ly dormant from the Death of the Lord *Gilbert*, till your Lordship, the Male lineal Heir, thought fit to assume and revive it; and your Lordship is now the eleventh Peer. Your Lordship has struggled under the Ruins of your Family; but by your wife, nay surprising Conduct, even when young, has got above them; for which your Posterity, in the Ages to come, will rise up, and keep a thankful Memorial of you.

I have perused a State of the Precedency of the Lord *Somerville*; it is a distinct and well documented Performance, demonstrating from authentick Vouchers, that the Lord *Somerville* is now the first Lord Baron in *Scotland*, in Opposition to all the Rolls printed for more than 150 Years bygone. It begins with shewing your Precedency to the following Lords, after this Order, 1st L. *Forbes*, 2d L. *Salton*, 3d L. *Gray*, 4th L. *Cathcart*, 5th L. *Stewart* of *Ochiltree*, 6th L. *StClare*, 7th L. *Mordingtoun*, 8th L. *Semple*, 9th L. *Elphinston*, 10th L. *Oliphant*, 11th L. *Borthwick*, 12th L. *Lovat*, 13th L. *Ross*.

This Roll is as incorrect as any I have seen. Your Lordship is far from having the remotest Intention of detracting in the least from the Honour of any of these noble Families; but you can't be blamed for doing Justice to yourself and Family, by shewing that your Ancestor, the first Lord of your Family, was
a Lord

a Lord of Parliament before them : The said State evidently makes it out, to the Conviction of every impartial Man, that all the Lord Barons foresaid are posterior to your Investiture into the Dignity, and that none was invested as your Lordship's Ancestor till the Reign of King *James II.* this is shewed at full Length : For this Reason, and the Discoveries made thereby, the printing of it with the History of your Lordship's Family, must be acceptable to the Publick, there being many Things I have omitted, that this Dedication might not in Bulk be equal to the Treatise.

Your Lordship, for the Grounds and Reasons advanced in the foresaid State of Precedency, did petition the Lords Spiritual and Temporal assembled in Parliament, *anno* 1723, praying, that Directions might be given for declaring and establishing your Right and Title to the Honour and Dignity of Lord *Somerville*. This Petition was referred to the Committee of Lords for Privileges, who made their Report to the House *die Lunæ Maij* 27. 1723 ; whereupon the Lords resolved, that your Lordship has a Right and Title to the said Honour and Dignity of Lord *Somerville*, and ought to be placed in the List and Roll of Peers in *Scotland*, in the Place in which his Ancestor the Lord *Somerville* sat the 15th of *February*, *anno* 1524, with a saving nevertheless as well to the Petitioner, as to all other

D E D I C A T I O N. xxx

ther Peers of *Scotland*, their Rights and Places upon further and better Authority shewed for the same. This is subscribed by *William Couper Cl. Parl.*

This Resolution being laid before his Majesty by the Lords of the white Staff, he was graciously pleased to approve thereof, and did direct an Order to the Lord Register of *Scotland*, to inrol your Lordship, Lord *Somerville*, conform to the Decree of the House of Peers.

The Lord *Eliebank*, after repeating the foresaid Decree, did, in the Name of the Lord *Somerville*, *June 13th, 1723*, protest,
 " That whereas, according to the foresaid
 " Order, the said *James Lord Somerville*
 " stands now ranked in the Roll or List
 " after the Lord *Ross*, and the other Lords
 " that are marked before the said Lord
 " *Ross*: Therefore, and in pursuance of the
 " afore said saving Clause in the foresaid Or-
 " der, I *Alexander Lord Eliebank* do here-
 " by, in the Presence of the Peers of *Scot-*
 " *land*, assembled at the Palace of *Holy-*
 " *rood-house*, pursuing to his Majesty's Pro-
 " clamation for electing a Peer to sit in Par-
 " liament, in the Place of the late Earl of
 " *Bute*, protest in the Name of the said
 " *James Lord Somerville*, that he may be
 " hereafter ranked in the Roll or List of the
 " *Scots* Peers, before all these Lord Barons,
 " who are at present ranked before him up-
 " on

“ on the Authority above mentioned, and
 “ others that shall be shewed hereafter for
 “ the same. And upon this my Protestati-
 “ on, I take Instruments in the Hands of
 “ Mr. *Alexander Gibson* of *Durie*, and Sir
 “ *James Justice*, Clerks to the Meeting; and
 “ I require an Extract of my Protestation.”

Sic subscribitur

ELIEBANK.

Your Lordship's Right being so clearly established, you at the Election of the sixteen Peers to sit in this present Parliament, was chosen by the Plurality of Voices of the Peers then present, and the Proxies of such as were absent.

The uncommon Knowledge your Lordship has of the Antiquities of your Country, makes you a very competent Judge of the Arguments handled in this Treatise, and from the high Esteem and Regard entertained for your Lordship, this Treatise on Government is inscribed to your Lordship by,

My LORD,

Your Lordship's most obedient, and

devoted humble Servant,

Edinb. Dec. 22.

1746.

GEORGE LOGAN.

A
TREATISE on the Right of the
Kings of *Scotland* to the Crown.

S H E W I N G

*That it was not strictly and absolutely
hereditary.*

The INTRODUCTION.

IT is a just Observation of the ingenious Author of the Pamphlet intituled, *The Right of the House of Stewart to the Crown of Scotland*, That most of the late Pamphlets are employed in considering the Inexpediency of altering the present Settlement of the Crown in the illustrious House of *Hanover*, in Favour of the Pretender; he remarks, that the Arguments and Topicks advanced in them, give full Satisfaction to *Whigs*: But as for the *Jacobites*, who stily contend for the absolute, indefeasible, hereditary Right of the Kings of *Scotland* and *England*, there is no convincing of them, unless it be shoven, that there is no Foundation for such a Right, in the Constitution of these Kingdoms, or in the Law of Nature, or in any positive Law recorded in the holy Scriptures: Wherefore I undertake

A

in

in this Treatise to shew, that the pretended Right has no Foundation in the Constitution of the Kingdom of *Scotland*.

This Gentleman has to good Purpose shown, that the Right of the House of *Stewart* is not hereditary, from the Succession of *Robert Bruce*, from whom the *Stewarts* are descended, who had not the Right; and that the Right did belong to *John Baliol*.

The Sum of his Argument is, That the Race of *Alexander III.* being extinct by the Death of his Grand Daughter *Margaret*, in her Voyage from *Norway* (a), all agree, that *David* Earl of *Huntington*, had he survived, was the true Successor: But a mighty Competition for the Crown arose betwixt *John Baliol* and *Robert Bruce*. *Baliol's* Claim was, That he was the eldest Son of *Dornagilla*, Daughter of *Margaret*, the eldest Daughter of *David* Earl of *Huntington*. *Bruce's* Claim was, that he was the eldest Son of *Isabel*, of the second Daughter of the said Earl: He pleaded, that tho' he descended from the second Daughter, yet being a Male, a Grandson, and a Degree nearer than *Baliol*, the Great Grandson, he should

(a) The Author was in a Mistake, through the wrong pointing of the Words of *Boethius*, *Hist. Fol. 292. Sed priusquam ad eam ventum esset, puellam morte preventam, in itinere intelligentes re infecta, domum redierunt*: He thought that the Words *in itinere*, referred to *puellam*, rather than to *intelligentes*. This Mistake he has observed in the second Edition; and therefore leaves out the Words, in her Voyage from *Norway*. *Buchanan, Hist. p. 132.* says, that the Ambassadors understood, that she died before their Arrival.

should succeed: And though *Dornagilla*, *Baliol's* Mother, was of the same Degree, yet he, being a Man, should be preferred before her. The Factions in *Scotland* being great, they could not decide the Controversy, but referred the Decision to *Edward I.* King of *England*, who adjudged the Crown to *Baliol*: But *Baliol* not long after falling out with *Edward*, and being overcome by him, the Estates of *Scotland* revived *Bruce's* Title, and in a Convention held at *Air*, anno 1315, declared *Robert* (the Grandson of that *Robert Bruce*, who had compeated with *Baliol*) King. He got into the Throne even while *Baliol* was alive, and had a Son called *Edward*, capable to succeed him. *Edward* during the Minority of *David*, the Son of *Bruce*, recovered the Crown, and reversed the Acts made in the Reign of *Bruce*; but he was soon expelled, and *David* was settled upon the Throne. *David* died without Issue, and his Sister having married *Walter*, Great Steward of *Scotland*, her Son *Robert* came to the Crown, anno 1370 (a), and was the first King of the *Stewartine* Line.

Edward having, according to the Custom of *Scotland* in other Heritages, determined in Favour of *Baliol*, all the Kings descending from *Bruce*, must have been Usurpers, as wanting the hereditary Right, or they mounted the Throne on the Principles of the Revolution, viz. that it is
in

(a) Mr. *Ruddiman's* Table, and Sir *Thomas Murray's* chronological Table, printed with his Folio Edition of the Acts of Parliament, say, that he came to the Crown, anno 1371. Mr. *Burman* in his Edition of *Buchanan*, p. 391. agrees with them.

in the Power of the Estates of Parliament to alter, fix, and limit the Succession.

This Gentleman gives us a short Hint of another Interruption of the hereditary Right. He tells us, That *William* Earl of *Douglas* was so well convinced, that he had the Proximity of Blood, (upon which the *Jacobites* ground hereditary Right) as descending from both the *Baliols* and *Cummins*, that at the Accession of *Robert II.* he much insisted on his Claim: But that he might fall from his Pretensions, *Robert* found it necessary to give him his own Daughter in Marriage: And here our Author in the Foot Margin, p. 19. refers to *Buchanan*, *Boethius*, and the History of the House of *Douglas*; but labours under a little Mistake, for *Buchanan's* History, p. 167, says, she was given to *William's* Son: And *Home's* History of *Douglas*, p. 87, informs us, That upon the Earl of *Douglas's* desisting from his Claim, the King gave his eldest Daughter *Eupham* to the Earl's Son, that failing Heirs male, the Crown might then fall to his Son. That which is wanting to be shown, as to this Interruption, is the Ground that the Earl of *Douglas* went upon, for supporting his Claim, which Defect is supplied by *Home* (a). After King *David's* Decease, there was a Convention of the States at *Linlithgow* to have crowned *Robert Stewart*, Son to *Marjory Bruce* King *Robert's* Daughter. Thither went the Earl of *Douglas*, and did claim the Crown. ---He alledged, that he was to be preferred before *Robert Stewart*, because his Right was derived both from *Baliol* and *Cummin*.---*Alexander III.* dying without Heirs, the

(a) Hist. Douglas, p. 86.

the Title to the Crown was devolved to *David* Earl of *Huntington*.---This *David* had three Daughters, *Margaret*, *Isabel* and *Alda* or *Ada*. *Margaret* the eldest was married to *Allan* Lord of *Galloway*; *Isabel* 2d to *Robert Bruce*; the 3d *Alda* to *Henry Hastings*.---*Allan* Lord of *Galloway* had by his Wife *Margaret* two Daughters, *Dornagilla* and *Mary*; *Dornagilla* was married to *John Baliol*, Father to that *John Baliol*, who was afterward crowned King of *Scotland*. *Mary* was married to *John Cummin* Earl of *Mar*, and by her had red *John Cummin*, slain by King *Robert Bruce* at *Dumfries*.---*John Cummin* had by *Mary* his Wife, one only Daughter, called *Dornagilla*, who was married to *Archibald Douglas*, slain at *Halidonbill*, Father to this *William*, of whom we now speak, whereby he was Grandchild to *Margaret*, *David* of *Huntington*'s eldest Daughter, and by consequent reckoning him *David* of *Huntington*; his Daughter, 1. *Mary*; 2. Her Daughter *Mary*; 3. *Mary*'s Daughter; 4. This *William* is the fourth Person. On the other Side, for *Robert Stewart*, reckoning from the said *David* of *Huntington*, his Daughter, 1. *Isabel*; 2. Her Son *Robert Bruce*; 3. His Son King *Robert*; 4. His Daughter *Marjory*; 5. Her Son *Robert Stewart* is the fifth Person, which is a Degree farther than the Earl of *Douglas*, who was in equal Degree with *Marjory* his Mother. Mr. *Home*'s Remark upon this is, that this Reckoning is not unlike that, whereby *Robert* Earl of *Carrick* did claim it before, when he contended with *Baliol*'s Mother; and besides all this, he was come of the eldest of *David*'s Daughters, which *Bruce* was not.

By

By these two Instances, it most evidently appears, that the hereditary Right did not always obtain in the Succession of the Kings of *Scotland*. But my Intention is to give a more full Demonstration of it, especially since the Pretender to the Crown, in his Declaration, dated at *Rome*, *December* 23. 1743, boasts, that his Progenitors have swayed the Scepter (of *Scotland*) with Glory, thro' a longer Succession than any Monarch on Earth can boast of. But King *Charles II.* did not boast of his Progenitors for swaying the Scepter with Glory, when he granted to Sir *Thomas Murray* of *Glen-doick* his Royal Licence and Privilege to print his chronological Table of the Kings of *Scotland*, with the Acts of Parliament, in his Edition in *Folio*, anno 1681. The Privilege was sealed according to Warrant, under his Majesty's Privy Seal at *Edinburgh*, *March* 31. 1681, by which the blackest Characters of many of our Kings, his Progenitors, are licensed to be published: Nine of them it brands for being cruel and bloody Tyrants, the 5th, 8th, 11th, 13th, 20th, 22d, 26th, 35th and 36th: Others of them are described to have been wicked and vicious, the 16th, 23d, 54th and 77th. Are these to be mentioned with Renown! Is it a Glory to be descended of *Tygers* for Cruelty, and Monsters of Impiety? Is not this to glory in their Shame? Mr. *Garden* in his Theatre of the *Scottish* Kings, says of them,

*When Nero-like, regardless, they did rin;
And sunk themselves in every Sort of Sin.*

Besides these, three of our Kings laid violent Hands upon themselves, the 29th, 52d and the 70th.

70th. It is Pity that ever such Men were numbered in the Catalogue of our Kings, their Memory must stink and rot for ever.

I profess, that I am at a Loss to know, when and by whom this chronological Table was composed : But I am sure, that great Credit was given to it long before the Year 1681, in the Reigns of King *James VI.* and *Charles I.* for Sir *John Skeen* published this Table of our Kings, in his Edition of the Acts of Parliament. Now these Gentlemen had the best Opportunities of knowing what was Truth in this Matter, and had Access to search our Records; their Testimony therefore merits no small Regard. *Skeen* was Clerk of the Register, Council and Rolls; and when *Murray* published his Edition, he enjoyed the same Office, and obtained King *Charles II.* his Licence for printing it. If it shall be said, that there is not much in this, because Licences to print Books and Treatises, pass in Course without due Examination, I shall own, that King *Charles* perhaps was not at the Pains and Trouble to make any Inquiry into this Matter; but it cannot be refused, that these able Lawiers, who knew as much of our History as any, would be cautious in publishing any Thing that did reflect on the Ancestors of our Kings, if there were not sufficient Grounds for it. Besides these two Tables, and *Garden's* Theatre, which gives likewise an Account of our Kings, there is a valuable Treatise, entituled, *Certain Matters concerning the Realm of Scotland*, as they were anno 1597, but printed anno 1601, which agrees perfectly with the said Tables. In fine, I don't think that I am guilty of any great Trespass,

pass, if I should assert, that our Nation got little Glory by the five Reigns preceeding the late happy Revolution.

The Question now in Debate, is, Whether the Right of the Kings of *Scotland*, or the Monarchy of *Scotland* was always hereditary, in a strict Sense? It will be owned by my Antagonists, that since the Revolution it is not strictly hereditary. In order to a right Resolution of this important Question, the Terms, for avoiding all Ambiguity and Strife about Words, need to be explained.

Monarchy, is the Government of one Man over a great Body of People, or numerous Subjects. These who are for the patriarchal Scheme, as Sir *Robert Filmer* and Dr. *Leslie*, make *Adam* the supreme civil Governor or Monarch of the World, as long as he lived, which was 930 Years, and *Noah*, for the Space of 350 Years after the Flood: But after him, they are obliged to own, that the Empire of Kings was not so extensive; for tho' the *Affyrian*, *Persian*, *Grecian* and *Roman* Monarchies were very large, and were called universal, and particularly the *Roman* Empire in holy Writ, is called *παρα οὐμνην* the whole World, or inhabited: Yet, in strict Propriety of Language, they were no more universal, than the King of *Spain* can be properly called a Catholick King, or the Church of *Rome* the Catholick Church. The *Roman* Empire came to be divided into Eastern and Western, and then afterwards lesser Governments sprung out of them. The Government of *Scotland* was, and now of *Great Britain*, is monarchical.

Here

Hereditary Monarchy, according to *Filmer* and his Followers, is that which descends from Father to Son by the Right of Primogeniture; and failing a Son, the Succession is to go to the next Male-heir, to the Exclusion of a Daughter. And thus it obtains in *France* by the *Salique* Law. But according to others, hereditary Monarchy is that which descends by Proximity of Blood, whether this Proximity be in a Son or a Daughter; and so the Succession goes in *Britain*, and so it went in Queen *Mary's* Time in *Scotland*.

B

TREA-

TREATISE on the Right of the Kings of *Scotland* to the Crown, &c.

THE Pretender claims the Crown of *Scotland* (for he intends, that the Union of the two Kingdoms shall be dissolved, and to make *Scotland* a separate Kingdom from *England*, as it was before the Year 1707) as his Inheritance and natural Estate, as he is the Son of the late King *James VII.* and accordingly the young Chevalier, *Collect. of Pr. &c.* p. 29. stiles himself Heir apparent to the Crown. The Learned Mr. *Thomas Ruddiman* tell us (a), “ That the
“ Kingdom of *Scotland* doth not depend on the
“ Election or Suffrages of the Estates, but descends
“ to the next of Kin immediately, by the hereditary Right of Blood, in the same Manner,
“ that Sons acquire the Dominion over the Goods
“ and Estates of their Parents, after their Decease.” Thus, according to him, one Man, by his Proximity of Blood, has a Right to possess Nations of Men, Millions of his fellow reasonable Creatures, as his natural Inheritance, as much as he does his Herds of Cattle and Flocks of Sheep: But I am sure there is a vast Difference between moral free Agents and brute Creatures. I can never degrade the
Dignity

(a) Annot. ad Buch. p. 432. Col. 1. Cum enim regnum *Scoticum* non ex ordinum suffragiis pendeat; sed jure sanguinis hereditario in genere proximos continuo descendat, eodem jure, quo filii in parentum defunctorum bona et possessiones, dominium protinus acquirere solent.

Dignity of my Nature so far, as to think that I am on the same Level with them; God having given to Man a Right of Dominion over them: And I shall be the last Man in the Nation to think, that the Learned Mr. *Thomas Ruddiman* ought to be ranked with them. I highly esteem and value him for his most excellent and useful Grammatical and Critical Performances in the *Latin* Tongue, by which he has done more for advancing that Kind of Learning, than any of the present Age; and here with Gratitude I must acknowledge, that I have been greatly instructed in a good many Things by his Writings; and particularly by the valuable Present he honoured me with, of his unanswerable Defence of *Buchanan's* Paraphrase of the Book of Psalms, from the Objections raised against it, by *William Benson*, Esq; in which, upon a Comparison of the Performances of Mr. *Buchanan* and Dr. *Arthur Johnston*, he demonstrates the Superiority to belong to *Buchanan*. But, as to the hereditary Right of the Kings of *Scotland*, in the strict Sense, I cannot be of his Mind; it is his favourite Opinion, of which he is so excessively fond, (he will forgive me) that he has fallen into several Mistakes, not wilfully, I am persuaded, but by taking too many Things upon Trust, without due Examination, and relying upon a Train of high flying Writers in his Annotations.

But to return: I expected that our Learned Annotator knew more of our Law, than to assert, that Sons' (*fili*) indefinitely acquire an hereditary Right to the Estate of the deceased Parents; for the Law of *Scotland* makes the Inheritance to go

to the eldest Son : Besides, I do not understand the Phrase, *acquiring a hereditary Right* ; for an hereditary Right is that which one is born to ; And the Gentlemen of Mr. *Ruddiman's* Opinion speak of a Kingdom's being the natural Inheritance of the Prince. But I am apt to think, that by *fili* he does not understand the Sons of the same Father : But the *Primogeniti*, the eldest Sons of distinct Fathers, who have Estates to leave behind them at Death. When I say that the Monarchy of *Scotland* was not strictly hereditary, I beg that I may not be mistaken, as if I denied a Succession of our Kings from Father to Son, to have been for any considerable Time ; but I am of the Sentiment of the Learned *Grotius*, in his justly admired Book, concerning the Right of War and Peace, wherein he declares the utmost, that Succession amounts to (a). " Succession of itself doth not denominate the Manner, nor specify the particular Form of the Government, but only a Continuation of that Right, which was at first settled, and as much as was first given, is afterwards continued by Succession, and no more ; Succession only brings down to Kings, what was first agreed on, at the first Admission of their Progenitors, to the Exercise of the Royal Authority." Now it will afterwards appear, that *Scotland* was not the Inheritance of *Fergus I.* he being a Foreigner,

and
(a) *Lib. I. C. 3. Sect. 10. Nam successio non est titulus imperii, qui imperio formam assignet, sed veteris continuatio. Jus enim ab electione familiae (Gronovius, in primo, qui ejusdem familiae ad regnum erectus est) ceptum succedendo continuatur ; quare quantum prima electio, tantum deservit successio.*

(a) W

and the Son of *Ferchard* King of *Ireland*; besides, he and the Chiefs of the People came at that Period under an Agreement and Contract, as to the Form and Limitations of the Government. Lord *de la Mere* Earl of *Warrington*, a most illustrious Patriot in a Time of great publick Danger, was of the same Sentiments: He, in a Speech in Parliament, for the Bill of Exclusion of the Duke of *York*, the Pretender's supposed Father, which is extant in the Earl's Works, undertakes to prove, that the next in Blood has no absolute Right to the Crown (a). "The Duke, says he, is not Heir apparent, neither do I think, that our Law knows any such Thing as an Heir to the Crown, but only as a Successor; and therefore the Duke cannot pretend the same Title to the Crown, as the Son of a Subject can to his Father's Estate after his Decease; for with Subjects they do not succeed, but inherit; and it is from a not right considering the Word *Heir*, as it is a synonimous Word with that of *Successor*, that has made so many to be deceived in the Duke's Title to the Crown; for the Word *Heir* to the Crown was not heard of, till arbitrary Power began to put forth:" This Account is directly contrary to Mr. *Ruddiman's* foresaid Description.

When hereditary Right to the Crown of *Scotland* is contended for, with so much Warmth and Zeal, for serving the Cause and Interest of a Popish Pretender, one would think, that the keen Sticklers for him should be sure, that he is the

(a) *Warrington's Works*, p. 96.

undoubted Heir. I have been at due Pains to find if there is any legal and certain Evidence of the Pretender being the Son of King *James VII.* and can find none. The ingenious Author of the *Right of the House of Stewart*, &c. p. 18. is very jocular upon this Subject; he has afforded me some Diversion with the Marks assigned by the Ladies and some others, whereby the young Chevalier, who calls himself the apparent Heir, may be known. It may be thought Weakness in me, at this Time of Day, to start any Difficulty, or to move a Question about it; but that which supports me in this, is, that some great Names still have more than Doubts about it. Two eminent Bishops in their Sermons, printed since the Commencement of this unnatural Rebellion, give no Credit to it. The one is the Bishop of *Oxford*, who, p. 18. says, "That all the World knows, that it was generally and strongly suspected, that he was not the Queen's Child; and the three Estates, the only fit Judges of a doubtful Succession, fixed it without taking Notice of him." The other is the Archbishop of *York*, who, p. 16. affirms very pointedly, "That he has neither Birth nor Law, to intitle him to a Crown:" But before them, there were two other Bishops of great Figure, who lived at the Time when the Pretender was born, and made it their Business to search into the Truth of this Matter, and both are of Opinion, that there are the strongest Grounds for entertaining a Suspicion of his being a Counterfeit; these are the celebrated Dr. *Gilbert Burnet* Bishop of *Sarum*, and Dr. *Lloyd* Bishop of *St. Asaph*. The former gives us a pret-

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ty large Account of a Number of Circumstances, which make it more than probable, that a Cheat was carried on : He tells us (a), " That the most
 " of the Passages were Informations sent over to
 " the Prince and Princess of *Orange*, and adds,
 " that he does not mix them with these various
 " Reports that were both then, and afterwards,
 " spread, of this Matter, of which Bishop *Lloyd*
 " has a great Collection, most of them well at-
 " tested." This Collection the Curious will see
 in *Oldmixon's History of England*, during the
 Reigns of the Royal House of *Stewart*, from
 p. 734----737. Besides what is narrated by these
 grave and Reverend Authors, Children who
 would not tell or make a Lie, the Archbishop of
Dublin, in his State of the Protestants in *Ireland*,
 speaking of the Birth of the Prince of *Wales*, says,
 " We are satisfied it is a Cheat, and that it is
 " not so much as a well-contrived Cheat." His
 Grace the late Duke of *Argyle*, upon the De-
 bate in the House of Peers about imposing the
 Malt-tax upon *Scotland*, having Occasion to men-
 tion the Pretender, said, " He knew not what
 " Appellation to give him, his Name being now
 " as uncertain as his Parents." I have a Memo-
 rial of the *English* Protestants, (lying before me
 at the writing of this Section) which they sent o-
 ver to the Prince and Princess of *Orange*, before
 the Prince's Expedition into *England*, for our De-
 livery from arbitrary Power, Popery and Slavery,
 but afterwards printed *anno* 1689, giving the ful-
 lest Account of this Matter, I ever met with, it
 takes up a good Number of Pages in 4to, from

p. 32.

(a) *Memoirs*, p. 1262---63.

p. 23---59. It is a most elaborate Performance, and very convincing, that the Pretender is an Impostor. These Protestants say, " That upon the " Grounds they advance, they no more suspect, " but conclude, and believe the pretended Prince " of *Wales* to be a mere Counterfeit. They sent " the Memorial over to *Holland*, by an Express " to Monsieur *Benting* at the *Hague*, and desired " him to deliver it forthwith to his Highness " the Prince of *Orange*, and in his Absence to the " Princess." This Memorial was so strong and convincing, that when the Prince published his Declaration, he therein expressly complained of imposing upon the Nation a Prince of *Wales*. Add to all these Authorities, that of the House of Commons, in their Impeachment of the Lords taken at *Preston*, anno 1715, in which they call him a spurious Impostor, and a Popish Pretender to the Crown of these Realms. Now it being the constant Argument, and main Plea in the Mouths of all our *Jacobites*, that the Pretender hath a Right to the Crown by Birth and Blood, the Printer of this Treatise will take Care, for the Satisfaction of these Gentlemen, if such a Thing is possible, to print the Accounts given us of this spurious Birth, by the foresaid Bishops and the *English* Protestants.

All civilized Nations in the World, where the Monarchy is hereditary, have taken so great Care that the Heirs should be known, that it was not possible for any Controversy to arise about their Birth. When the Right depends merely upon Birth and Blood, he that claims it, is obliged to prove it by habile and legal Witnesses, against whom no rele-

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relevant Exception can be made, and that upon his Peril of being excluded from the Right which he demands. The Empress *Constantia*, the Wife of the Emperor *Henry VI.* being well advanced in Years, the People suspected she was past Child-bearing; but, to remove all Jealousy on this Head, the Emperor gave abundant Satisfaction, by causing prepare a publick Place, where she might remain with her Keepers, till the Time of her Labour should come, that no supposititious Child should be conveyed to her, and there in the Sight of as many Matrons and others, that would or could possibly approach her, she brought forth a Prince, who was afterwards Emperor, *Frederick II.* When it was given out that King *James's* Queen was with Child, the Popish Faction fell a prophesying the Birth of a Son, at a Time when it was not possible to have any Certainty that she was pregnant; this, with many other suspicious Circumstances, made Protestants to suppose a Fraud, and they were confirmed in their Suspicion, by reflecting, that a like Deceit had been put upon the People, in the Reign of *Mary*, the Popish and cruel Queen of *England*; for then to relieve them of their Fears of a Protestant Princess in Succession, (*viz.* her Sister, the Princess *Elisabeth*) the *Romish* Priests gave it out, that the Queen was with Child. In like Manner, the Popish Clergy were so lifted up with the Sham of King *James's* Queen's being with Child, that tho' the Child should prove a Daughter, yet it would cut off the Princesses of *Orange* and *Denmark*, who were firm Protestants, from the Succession, upon the Pretence, that a

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Daughter born, since the King's Accession to the Throne, ought to take Place, before Princesses born, while he was Duke of *York*. The King and Queen knew very well, that there was a strong Suspicion entertained by many, that she was not with Child, for there were some Libels written, treating the whole as an Imposture or Trick: But the Ule that the Queen made of it was, to say, " That since she saw some suspecting her, as capable of so black a Contrivance, she scorned to satisfy those, who could entertain such Thoughts of her!" This was a very poor Evasion, and very unlike the wise Conduct that was taken in the Case of the Empress *Constantia*. Care should have been taken to have had present at the Birth, some, whom the Princess of *Orange*, the presumptive Heir, could trust, and the Princess of *Denmark* and others, to be famous Witnesses of her Delivery. The *Jacobites*, to take off all these Grounds of Suspicion, alledge, that she afterwards bore to the King a Daughter in *France*: This indeed proves, that she was not past the Time of bearing Children, but then, at this Time, the Queen's Infirmities were such, as the Physicians declared, she was disabled from having a living Child; and then when the Time of her Delivery was approaching, no Physicians were called to attend some where near her, in the Time of Travel, if there should be any Danger. After this she might recover her Health, and be restored to a right Constitution; and this may serve to account for her having a Daughter in *France*.

King *William*, in his Answer to the Memorials offered at the Treaty of *Ryswick*, by King *James*,

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James, says, "It was the late King's own Conduct
 "that gave just Cause of Jealousy; no Satisfaction
 "was offered, neither to those that were most im-
 "mediately concerned, as being next in Succession,
 "nor to the rest of the Nation, which yet might
 "have been done in a Way, that could not have
 "admitted of a Doubt, if there was no Imposture
 "designed in the whole Conduct of that Affair."

It is true, that the Court, in an After-game, thought it necessary to offer some Satisfaction; but the Depositions taken were not published till the latter End of *October*, about five Months after the Birth, a little before the Prince of *Orange's* landing: And these who deposed, were all either profest *Jacobites*, or Dependants on the Court, and so were not *homines legales*, and most of them prove nothing at all. Bishop *Burnet* (a) shews, that the Proof brought was apparently defective; that it was so far from lessening the Jealousy, that it rather did increase it. He says, That the Midwife was the single Witness that saw the Child soon after he was taken from the Queen. The Countess of *Sunderland* does not depose, that she felt the Child in the Queen's Belly, and that her Hand did go no lower than the Queen's Breasts. The Ladies deposed, that they saw the Marks of Milk on the Queen's Linen, near her Breasts; and some, that they saw it running out at the Nipple before the pretended Delivery; but none of them deposed concerning Milk after the Delivery, tho' Nature sends it then in the greater Abundance. And as to the Time when they saw the Milk, they do not name the Time, except one who named the Month

(a) *Memoirs*, p. 1317.---1320.

Month of *May*; but then, it is alledged, that the Queen had miscarried. *Mrs. Pierce* spoke only to one Time, that she took Linen from the Queen's Body, which carried the Marks of a Delivery; but if this had been true, it was capable of a more copious Proof. The Lady *Wentworth* is the only Witness that deposed, that she felt the Child move in the Queen's Belly, but fixed on no Time: If it was before *Easter Monday*, it might be true, but not as to this Birth; for it was thought the Queen had miscarried at that Time: This, says the Bishop, was the Substance of the Proof which was printed. The King himself was so sensible of these Defects in the Proof, that after King *William* and Queen *Mary* were settled upon the Throne, he endeavoured to repair it, by re-examining of the Witnesses: But they were too much concerned as Parties, that they should not have been admitted as Witnesses. The Parliament of *England* did not think it incumbent upon them to try that, which was generally called in question, but let it remain in that just doubtfulness, under which King *James* by his Management had brought it; and when the Heir is doubtful, it is no better than none at all. Besides, King *James* took Care to cause carry over to *France* all those who had a Share in the Artifice, so that these could not have been examined in *England*. From what is above advanced, it must be evident, that it is not possible that there can be a legal Proof, that the Pretender is the King's Son.

As I have already acknowledged, that the Monarchy was hereditary, as the Word *Heir* is a synonymous Word with that of Successor, the Kings

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of *Scotland*, for some Periods of Time, have succeeded from Father to the Son; yet they never, except in the Case of an Usurpation, mounted the Throne, without the Consent of the Nobles and the other Representatives of the People. Hence it is, that *Barbeyrac* a celebrated Annotator on *Grotius's* Book of *the Right of War and Peace*, observes (a), “ That in Truth, there is not “ any Kingdom, that is a Patrimony, without the “ Consent, either express or tacite, of the People.” It is in this Sense, that our celebrated Historian *Mr. Buchanan* maketh Use of the following Phrases with respect to the Kings of *Scotland*: *He was elected, he was substituted, or put in the Place, (viz. of the former King) he was created by the Suffrages of the People, the People ordered him to govern, and the like.* *Mr. Robert Freebairn* published a most correct Edition of *Buchanan's* Works, historical, poetical and political, in two *Folios*, at *Edinburgh*, anno 1715, for which the Learned are obliged to the great Labour and Industry of *Mr. Ruddiman*, Keeper of the Advocates Library in *Edinburgh*, of whom I must always speak with Esteem, yet I beg Leave to differ from him, as to political Principles of Government, and some Criticisms on *Buchanan's* History; for he is both the Annotator and Prefator, if I am not mistaken, though *Mr. Freebairn* sets his Name to the Preface. Now the Prefator gives us his Remark on the forecited Phrases, and fathers it upon some very sage Men,
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(a) *Annot. ad lib. I. cap. 3. Sect. II. Revera nullum omnino regnum est in patrimonio, nisi ex consensu expresso vel tacito populi, qua de re dicemus in notis nostris Gallicis ad hunc locum.*

(*gravissimorum virorum*) it is their Opinion, without naming them (a), “ That *Buchanan* has perverted the most antient Facts, to serve his own particular Views, viz. the dethroning of Queen *Mary*, or substituting King *James* her Son in her Place, or more truly the Earl of *Murray*, by the Phrases so oft repeated by him, (which I have translated, p. 21.) according to the Example of our Fore-fathers, contrary to the Faith of all our Annals, and all publick Acts, whereby it is manifest, that the Kings of *Scotland* constantly enter’d upon the regal Function, not by the Suffrages of the People, but by the Right of Blood.”

In Opposition to this Observation of the Prefacer’s most sage Men, I shall subjoin the Opinion of Dr. *Nicholson* Bishop of *Carlisle*, as sage as any of them, and more conversant in our *Scottish* Historians and Antiquities, than they all, as we have it in his *Scots* historical Library; he assures us, that our Historians, the Writers of our Annals, favour the Rights of the People, as well as *Buchanan* (b); he acquaints us, that *David Chambre*, (whom Dr. *MacKenzie* calls Lord *Ormond*, and one of the Senators of the College of Justice) in a Treatise in *French*, intituled, *La recherche des singularitez plus remarquables concernant l’estate*

d’*Escoffe*,

(a) Pref. p. II. Col. I. Quo enim alio pertinere (aiunt) toties repetita, electus est, susceptus est, populi suffragiis creatus, populus regnare jussit, et similia, adversus omnium annalium, omniumque actorum publicorum fidem, quibus non populi suffragiis, sed sanguinis jure, regnum apud *Scotos* iniri perpetuo commemoratur, nisi, ut *Maria* de summa potestate dejectio, *Jacobique* ejus filii, aut *Moravii* verius, in ipso locum surrogatio, majorum exemplis confirmaretur.

(b) *Scot. Libr.* p. 36.

(a) ib

d'Escoffe, expressly “ fetches the Original of Sovereignty from the People, who were under a necessary Constraint, by reason of the Wars they had with the *Britons*, to transfer the sovereign Power, and to create *Fergus* the Son of *Ferqubard* King of *Ireland*, their first King (a).” Likeways he tells us, “ That *John Major*, in his History in the Case of *Baliol* and *Bruce*, maintains the Power of the People, and gives great Allowances to the Parliament in the Disposal of the Crown (b).” *Hector Boece*, says he, “ is of the same Principles with *Buchanan*, as to Civil Government, the Power of Parliaments, and the Liberties of Mankind, that he relates Facts touching the making of Kings, and deposing them, by the creating Power of the People, from our ancient *Scots* Writers, and Monuments.” The Bishop does not omit *Fordun* (c), for he says, “ That *Fordun* and *Boethius* are so indulgent to the Peoples Claim of Right, that ’tis no Wonder to see their Followers to carry it so high on the same Side.” And (d) he makes Mention of one *R. Maul*, who wrote an History of his Country, which he called *Periodi Gentis Scotorum*, “ wherein he discourses at large on the various Changes of Religion, and the Government of the States, as independent on (or above) their Sovereigns.” Thus it is plain, that if *Mr. Ruddiman* wrote the Preface, he has taken upon Trust what his *viri gravissimi* have asserted: But as the Bishop of *Carlisle* gives this Testimony touching the Writers of our Annals: So Dr. *Edward*

(a) *Scot. libr.* p. 103. (b) *ibid.* p. 106. (c) *ib.* p. 36.
 (d) *ibid.* p. 126, 127.

ward Stillingfleet (a) observes, that the opposite Doctrine to *Buchanan* cannot be defended on good Grounds, unless the Account of *Fergus* the Son of *Ferqubard*, and the Succession of Kings from him, were rejected.

But that I may not seem to take Things upon Trust, as the Prefacer has done, I shall shew from the Writers of our Annals themselves, that they used the very same Phrases, which are so much quarrelled in *Buchanan*. An Answer above twenty Years ago to the said Preface was prepared; at that Time there was a Design of publishing a new Edition of *Buchanan's* History, with a Reply to Mr. *Ruddiman's* Annotations upon the Life of Mr. *George Buchanan*, and his History, but thro' the Death of several worthy Gentlemen and Ministers, no Progress was made; it is a Pity that the Answer to the Preface has not been published; but on the Prospect of publishing it, and giving a new Edition of *Buchanan's* History, with an Answer to a great Number of Mr. *Ruddiman's* political Notes, I shall not take the Help of any thing that these Gentlemen had prepared, as an Answer to the Preface: However, a few Years ago, this Project was set on Foot; and if there shall be sufficient Encouragement given to the Undertakers by Subscriptions, the Work shall go on, as an Answer is prepared to these Things that are objected against *Buchanan's* History. I hear, that a Defence of *Queen Mary*, against Mr. *Buchanan's* Detection, has been a preparing for some Years bygone, wherein, as it is said, grand Discoveries will be given of *Buchanan's* Partiality and Falshood,

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hood, as an Historian: But, as *Buchanan's* Performance has stood the Test, against all that have written against him; so I am apt to believe, that this much boasted of Performance against *Buchanan's* Detection, will not see the Light for a good Number of Years to come.

And now, as to *Buchanan's* Phrases, which are quarrelled, I am to shew, that they are used by our other Historians, both before and cotemporary with *Buchanan's*, who could have no Design against *Queen Mary*, nor Intention of raising the Earl of *Murray* to the Throne, all of them having writ before both, excepting *Lesly*, the Popish Bishop of *Ross*, who surely was no Enemy to Monarchy, but a firm Friend and mighty Advocate for *Queen Mary*. His History was printed at *Rome*, anno 1578, four Years before *Buchanan's*. The Phrase, he was elected, is used by Bishop *Lesly* (a), and *Boethius* (b), and *John Major* (c). The Phrase *suffectus est*, i. e. he was put in the Place (of the former King) is used by *Boethius* (d). The Phrase, *populi suffragiis creatus est*, i. e. he was by the Suffrages

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(a) *Gest.* p. 40. Invaluit tamen adeo illud primum eligendi principis jus, ut hactenus Hibernia reguli, et primores familiarum viri, non magis successione, quam contribulium suffragiis ad dominia admittantur.

(b) *Hist.* Fol. 87. Indictis enim comitiis eligendi regis Athirconem Erhodi filium---Primores suffragante populo regem consalutavere.

(c) *Gest.* p. 276. Propterea tres status Edinburgi rex convocavit, qui Robertum secundo genitum comitem, Scotie gubernatorem eligunt.

(d) *Hist.* Fol. 49. Corbredus Carataci frater communi omnium suffragio in ejus locum suffectus est: And Fol. 133. he useth it concerning *Constantine*, Fol. 135. and Fol. 186. concerning *Eugenius VII.* and Fol. 191. concerning *Dongallus*.

frages of the People created King, is used by Fordun, *Scoticron. Lib. 2. Cap. 12. ad hanc insulam Albionis memoratus adveniens Fergusus, Scotorum primus rex in ea creatus est*, by Boethius (a). As to the Phrase, *Regnare jussus*, i. e. he was appointed to govern: We meet with it in Boethius's History (b), and in Lesly's *Gesta* (c); but because his *virī gravissimi* complain of Buchanan's using Phrases of the like Importance, (*et similia* :) I shall shew that our Annalists do the same. Boethius does it (d), and John Major (e), and Lesly (f).

Doth it not now appear, that the Prefacer's *virī gravissimi* have had a large Share of Assurance, when they would impole upon the World, such a gross Falshood for Truth, that our Kings came not to the Throne by the Suffrages of the Nobles, and the Consent and Appointment of the Representatives of the People. I am almost tempted to think, that they have read our Annals, as Witches say their Prayers, backwards. These Quotations are
a sure

(a) *Hist. Fol. 27. Coeuntes majores regni Euenum secundum clarissimum virum Finani regis ex fratre Donallo nepotem communi suffragio regem creant*; and Fol. 122. concerning the Son of Fergus II. and Fol. 129. concerning Euenus II.

(b) *Hist. Fol. 20. Reutham suffragante populo patres regnare jusserunt.*

(c) *Gest. p. 190. Constantini Culeno filio nobilitas universa imperium mandavit.*

(d) *Hist. Fol. 135. Dngardus omnium favore et suffragio, Scotorum regnum est adeptus. Fol. 201. Scoti Kennethum secundum Alpini filium regem constituunt. Fol. 332. Kennetho tertio cunctorum suffragiis Scoti regnum detulere.*

(e) *Gest. p. 200, 201. Hoc in anno Robertus Stuartus, Gualteri Stuarti filius et Roberti Brussii nepos natus est, qui postea rex Scotorum effectus.*

(f) *Gest. p. 186. Primores Kennetho regis filio, mox regnum detulerunt.*

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a sure Evidence, that the Prefator has taken Things upon Trust, and without a due Examination.

Our Prefator says, " That *Buchanan* repeats the " fore said Phrases frequently, with this View, " that the Earl of *Murray*, the Queen's Bastard " Brother, might be preferred to the Throne;" but herein he is inconsistent with himself; for (a) he makes *Buchanan* to have begun the writing of his History, anno 1568; at this Time he was Sixty two Years old, after this he lived twelve Years; for we are told in his Life, that he died, September 28th 1582, all these Years he had for composing his History. Now the Earl of *Murray* was murdered, as our Annotator observes (b), January 23d 1570; so that *Buchanan* must have made no great Progress in the Space of two Years in the writing of his History. And how then could he have it in his View, that *Murray* might be raised to the Throne, especially considering, that *Murray* left no Male-issue behind him; and he was dead twelve Years before *Buchanan* finished his History.

In order to our giving a clear Proof, that the Kings of *Scotland* had not a hereditary Right in the strict Sense, I shall, first, shew what was the Manner of our Constitution at first; and next, what was the Plan they laid down for the Succession of our Kings. And, First, as to the original

(a) Pref. p. 9. Col. 1. In qua historia condenda, quoad per adversam valetudinem, et regis instituendi, ei tum de-mandatum munus licebat, maximam deinceps (ab anno, ut ego arbitror 1568) vite sue partem posuisse videtur.

(b) Rud. Annot. ad Buch. p. 463. Col. 2. ex ipsis actis publicis palam est, eum an. 1569. juxta supputationem Romanam 1570. occisum fuisse.

ginal Constitution of our Government, it was as *Buchanan* narrates it (a). “The Chiftans of the
 “Islanders being almost of equal Authority, and
 “scorning to stoup one to another, *Fergus* the Son
 “of *Ferqubard* was sent for with Forces out of
 “*Ireland*, being counted the most eminent Per-
 “son of all *Scottish* Men, both for Counsel and
 “Conduct; he was by the unanimous Consent
 “of the People declared King.” Thus *Fergus*
 our first King, was made King by the Chiftans,
 the Representatives of the People, I say made
 King, for surely the Son of *Ferqubard* King of
Ireland, could not have an hereditary Right to
 the Kingdom of *Scotland*. Our Historians agree
 perfectly with this Account that *Buchanan* gives;
 the first I shall mention is Bishop *Leshy*, an Au-
 thority which our *Jacobites* will not controvert.
 He says (b), “That when *Fergus* had arrived in
 “*Argyle*, --- he advised them to consult among
 “themselves, whether it will be better for them
 “that the Government be lodged with the Nobles,
 “and Chiefs of their Families, as it had been
 “in former Ages, or with one Person to be their
 “King

(a) *Hist.* p. 55. *Insulanorum Duces cum pene pari dignitate essent, nec alter alteri cedere in animum inducent, accessit cum copiis ex Hibernia Fergusius, Fercharidi filius, omnium Scotorum et consilio et manu primus habitus, et magno populi consensu Rex declaratur.*

(b) *Gest.* p. 77. *Is (Fergusius) cum in Argatheliam ap- pulisset — suadet in consultationem ducant, ipsis ne commodius fuerit, penes optimates et familiarum principes, uti superioribus seculis, an penes unum Regem juarum rerum summam capeffere. At vero cum Regium nomen statim initio omnibus esset gratissimum, nulla tamen tribuum alteri cederi vellent, ipsi Fergusio maxima spei principi regnum ab omnibus decernitur.*

“ King ; that as for himself, he should be ready
 “ to receive their Commands, as they should de-
 “ termine : But when the Name of a King was
 “ mentioned, it was instantly most agreeable to
 “ them all ; and when the Tribes, or Clans, would
 “ not yield to each other, the Kingdom was by
 “ all adjudged to *Fergus*, a most promising
 “ Prince.” From this Passage there can be no-
 thing more plain, than that the Government of
Scotland was aristocratical at first, and that it be-
 came monarchical by the Determination and A-
 greement of the Tribes. *Boethius* is of the same
 Mind, *Hist. Fol. 6.* “ For putting an End to the
 “ War we are now engaged in, there is one Thing
 “ chiefly to be considered, namely, the Form of
 “ Government that is to be set up, without which
 “ there can be no safe Measure of making Laws,
 “ and of carrying on the War : Therefore take
 “ under your Deliberation, whether Monarchy,
 “ Aristocracy, or Democracy, is most for your
 “ Interest.---It belongs to you to determine this ;
 “ our Part is to receive your Commands. --- All
 “ desired to have a King.---It was the Sentiment
 “ of those, who had the chief Sway in that As-
 “ sembly, to make *Fergus* a Foreigner, one of
 “ great Merit and royal Extraction, their King.
 “ *Fergus* gave Thanks first to the great Men,
 “ and next to the People, for conferring the King-
 “ dom upon him (a . As

(a) *Ad susceptum bellum rite conficiendum, aliud vero
 apprime est necessarium summa administrationis forma, sine
 qua nullus juris dicendi, nullus belli gerendi modus, qua-
 vis in gente potest esse tutus: idcirco an unius consilii et du-
 ctu contenti regium nomen placet introducere, an optimati-
 bus quibusdam summam rei pertinere vobis fuerit commo-
 dius*

As *Fergus* was thankful to them for the Kingdom, so a long Time after this, *Malcolm II.* after he had obtained a Victory over *Grimus*, *Fordun* relates (a), "That he did not instantly assume the Title of *King*; but having called an Assembly of the great Men of the Kingdom, humbly desired that the Crown might be given him, if the Laws allowed it, and no other ways."

Sir *George MacKenzie*, in his *jus Regium*, p. 28. makes a surprizing Turn on the Words of *Boethius*. He says, "That *Boethius*, immediately upon the Arrival of *Fergus*, calls him *King*." I have read over the Passage, nay, all that *Boethius* writes concerning *Fergus I.* again and again, with great Attention: But cannot find, that *Boethius*, immediately upon the Arrival of *Fergus*, calls *Fergus* *King*; according to *Boethius*, he is not called *King*, till those who had the chief Sway in the Assembly made him *King*. Again, Sir *George* adduces a Passage from *Fordun's* *Scoticchronicon* (b), which

dus? an potius multitudinis arbitrio: in consultationem ducite—vestrum erit in hoc negotio, quid utilius ad vestram rem publicam sit, discernere: nostrum vero capeffere imperia—omnes Regem volebant—placuit Fergusium externum spectate virtutis hominem, regio prognatum sanguine, ob egregias virtutes dignum, omnium sententia, qui in ea multitudine imperitarent, Regem dicere—Fergusius ob delatum sibi regnum, patribus primum, inde multitudini gratias egit, &c.

(a) *Scoticchr. lib. 4. cap. 43.* Postquam vero *Malcolmus* victoriam, ut premititur, obtinisset, non sibi statim nomen assumpsit regium, sed convocatis regni principibus, coronam ab eis sibi dari, si jura permitterent, nec alias humiliter exegit.

(b) *Lib. 1. cap. 34.* *Fergus* filius *Ferchardi* ex antiquorum prosapia *Regum* progenitus, quod scil. acephala gens sua

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which is both uncorrectly printed, and too much abridged by him; and therefore I have given it more fully in the Foot Margin. Sir George keeps out in his Citation an important Part of it, viz. *Ubi segregatos e medio Pictorum Scotos accolas; i. e.* "The Scottish Borderers separated from the Neighbourhood of the Picts." Had he inserted these Words, it would have been obvious, that there was no Ground for what King James VI. in his *Basil. Doron*, p. 201. asserts, (viz. "That King Fergus made himself King and Lord of the whole Lands, as of the whole Inhabitants,") when he was aspiring at absolute and uncontrollable Power and Prerogative, would ground his Claim upon this, that Fergus made a Conquest of the Nation: In like Manner, Sir George founds his Doctrine upon these Words of Fordun, *Super eos Regem primum se constituit*: But to make Fordun consistent with himself, I shall compare this

Pas-

sua nationis absque rectore per Albionis vastas vagando solitudines, a Pictis ejecta degebat, cordis ob iram candescere capit. Insuper et illius commendatione regionis, qua forsitan regnare tetenderat, multum allectus est, quam qui vidissent, uberrimam predicabant, prater quod operiebatur eo tempore condensis valde nemoribus omnis humus, unde certum nobis et hactenus hujusmodi patet indicium, cum in locis contigerit et saepe planissimis, quibus terra fortassis effossa fuerit seu cavata, subterranea radices arborum ingentes et trunci reperiuntur, immo quo nusquam antea silvas crevisse diceret ulla signo. His ergo exhortationibus, et ambitione regnandi stimulatus, magnam sibi copiam juvenum accumulans ad Albionem continuo progressus est, ubi segregatos e medio Pictorum Scotos accolas una cum his quos secum attulerat in occidentalibus insula locando finibus, ibidem super eos Regem primum se constituit.

Passage with another (a), where it is said he was created King of the *Scots*; had Sir George read forward to this Chapter, he would not have laid hold upon the Phrase in the first Book of *Fordun*. *Super eos regem primum se constituit*: For, 1st, the Word *Rex* is not to be taken in its most strict Acceptation, for him we call a King or Monarch, but in a large Sense, as it signifies, a Leader and Commander; and the Word *primum* is not to be taken for an adjective, but adverbially; and so the Sense is, that *Fergus* having gathered together some of the *Scots*, with the Men he brought from *Ireland*, he became first their General, not to conquer the *Scots*, but to command and lead them in the War against the *Picts*; for their Nation was driven out of much of this Country by the superior Strength of the *Picts*: The Historian says, in the quoted Passage, *Gens a Pictis ejecta degebat*; and he having successfully fought their Battles, he was afterwards created their King, as is said in this Passage I have quoted out of the second Book. Now, in this Passage in *Fordun's* first Book, Sir George raises his Superstructure, which having a Foundation of Sand, cannot be firm.

Let us consider this Conquest, which is pretended to have been made by *Fergus*, upon which they would ground his Right of Dominion and his

(a) *Scotichron. lib. 2. cap. 12. Ad hanc insulam memoratus adveniens Fergusus Scotorum primus Rex in ea creatus est, quibus et ipse datis legibus et statutis ab occidentali quidem oceano Regnum, et ab insulis usque dorsum Albaniam dilatans, limites ibidem inter Regna constituit; nam orientalis oceani regnum Picti coluerunt.*

his Monarchy : It is certain, that his Conquest reached no farther, than the Victories he had over the *Picts*, by which the *Scots* were freed from the *Pictish* Oppression ; nay, notwithstanding of these Victories, the *Picts* remained a separate Kingdom for a long Time, even till the Reign of King *Kenneth III.* who entirely subdued them, and divided their Lands amongst the *Scots*. Again, these who came over with *Fergus*, and assisted him in his Battles, and all that descended from them, were free Men. They that fought on his Side, whether Officers or Soldiers, cannot be Sufferers by the Conquest they helped him to make, but must at least be as free Men as formerly they were : In such Cases they have a Share of the Spoil allotted them, or a Part of the subdued Country assigned them, as a Reward for their brave and faithful Services.

But for the present, let us grant that *Fergus* conquered the *Scots*, which he did not, and consider what Right is acquired by Conquest ; the Conqueror, in a just War, has indeed an absolute Power over the Lives and Fortunes of those he has conquered, and who fought against him ; they ly at the Victor's Mercy. But as to those of the conquered Country, who did not engage in the War against him, he has no Dominion over them, but by their Consent, and submitting to him ; he may indeed, in an unjust War, by Force, and with Swords at their Breasts, compel them to submit to his Government ; but then he has no Right to do this : If upon using Force and Violence, they consent and submit, it must follow that their Consent is necessary to give the Conqueror a Title

to rule over them ; but Consent, extorted by drawn Swords at their Breasts, is not binding, no more than when a High-way-man, with a Pistol in his Hand, forceth me to surrender my Purse, and quit my Horse to him, is binding upon me, if I can any way recover or retake them from him: If he should with a Dagger at my Throat make me seal Deeds to convey my Estate unto him, this will give him no Title to it. Just such a Title by the Sword has an unjust Conqueror, that forces People to a Submission unto him: That Force, which is committed by the Wearer of a Crown, is as injurious, as that which is acted by some petty Villain; nay the Injury is the greater, as the Conquered have no Court upon Earth to appeal to for Redress; but to do as *Jephtha* did, appeal to Heaven. Mr. *Lock* (a) says, " That Conquest does not set up any Government, no more
 " than the demolishing of a House sets up a new
 " one in its Place: It makes way for a new Frame
 " of Government, by destroying the former; but
 " without Consent of the People, can never erect
 " a new one."

The Argument he brings from *Gathelus*, must appear to every judicious Reader to be very ridiculous: He says, " That *Gathelus*, after several
 " Victories, settled in *Portugal*, which from him
 " was called *Portus Gatheli*; from which Place a
 " Colony of that Race transported itself into *Ireland*,
 " and another into *Scotland*: And the
 " *Scottish* Colony finding themselves sore distressed
 " by the *Britains* and *Picts*, they sent to *Ferquhard*,
 " the Son of *Gathelus*, for Relief, who sent them
 " a con-

“ a considerable Supply under the Command of
 “ *Fergus* his Son : We read, says he, nothing at
 “ all of the Consent of the People, but of the
 “ Heads of the Tribes, who had no Commission
 “ from the People, each of them having, by his
 “ Birth-right, a Power to command his own
 “ Tribe ; and consequently, the Royal Power
 “ was not derived to *Fergus* from the People, but
 “ had its Original from this Birth-right that was
 “ both in them and *Fergus* ; and he succeeded
 “ in the Right of those Chiefs to command their
 “ respective Families ;---and the Consent given
 “ by the Chief of the Clans and the People did
 “ not give, but declares the former Right.” But
 this Argument is very badly put together ; it
 plainly deserts the Argument, which he and King
James had taken from Conquest : He speaks of
Fergus’s Birth-right, but he could have no such
 Right to *Scotland* ; for neither his Father *Ferquhard*,
 nor his Grandfather *Gathelus* had any such Right ;
 and consequently *Fergus* could have no such
 Right transmitted to him from them : Next, he
 speaks of the Consent of the Chiefs of the Clans,
 and says that *Fergus* had this, and they having
 by Birth-right a Power over them, the Royal
 Power derived its Original from their Birth-right
 and his own : But it is certain he had no Birth-
 right to *Scotland* ; and therefore his Power could
 neither in Part nor in whole have its Original from
 it ; and if the Chiefs resigned their Birth-right to
 him, this might give him a Right, but never a
 Birth-right : Next, he turns it to a Consent ; and
 then adds, that this Consent did not give, but
 declare the former Right ; and yet he said, that
 the

the Royal Power had its Original from the Chief of the Clans. Again, he speaks not only of the Consent of the Chiefs, but of the People; for he says, that the Consent of the Chiefs and People did not give, but declare the former Right; so that the Consent of the Chiefs did no more, than the Consent of the People; thus he puts them upon a Level: And now after all, what does this amount to, but only to establish what *Buchanan* had asserted, that the Chiefs of the People, the *optimates*, the *primores* made *Fergus* a King? And when *Buchanan* in his History speaks of the Suffrages of the People, he means always their Representatives; the *optimates*, Persons of Figure, and Consideration and Interest.

Thus we see that our able Lawyer has been strangely entangled and perplexed about the original Constitution of our Government, and that all the Particulars adduced by him to support the Doctrine of the hereditary indefeasible Right of our Kings, do him no Manner of Service.

My next Work is to shew what was the Plan that was laid down for the Succession of our Kings, I shall translate the Account that *Buchanan* gives us of the Successor to *Fergus* I. and of the Determination of the Representatives of the People, after the Death of *Fergus*, concerning the Succession of our Kings, which plainly shews, that it was not by hereditary Right. From this it will appear, that *Buchanan* asserts nothing, but what our other Historians write (a). “ *Fergus* being
“ dead, left two Sons behind him, *Ferlegus* and
“ *Mainus*, but none of them able for the Govern-

“ men

(a) Hist. p. 54.

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(b) Pa*

ment of the Kingdom: It happened that the Chiefs of the Clans did meet, to declare who should be King. This Affair was transacted with great Contention, some alledging the Oath, whereby they were bound to secure the Kingdom to the Issue of *Fergus*; others, that great Hazards at home and abroad did threaten them, if an Infant was King. At length, after a long Dispute, a Method was fallen upon, by which neither an Infant, nor ripe for Government, might rule, nor their Oath be falsified, which was, That while the Children of their Kings were not of Age, one of their Kindred, who seemed to be best qualified, should sway the Scepter; and that upon his Death, the Children of the former King should succeed. This Law obtained for almost 1274 Years, even until the Days of *Kenneth III.* By virtue of this Law, *Ferithbaris*, Brother to *Fergus*, obtained the Kingdom (a). Sir George Mackenzie (b) admires, how *Buchanan* should have

(a) *Buch. Hist. p. 54. Fergusio defuncto, duo filii, sed nondum regni potentes, restabant, Ferlegus, et Mainus. Eo factum est, ut phylarchis ad prodendum regem coeuntibus, magna contentione res transigeretur, aliis iusjurandum jactantibus, quo adacti erant, regnum stirpi Fergusiana se conservaturos: aliis quanta domi forisque, rege puero, instarent pericula, commemorantibus. Tandem, post longam disceptationem, ratio inita est, qua nec puer, etate nondum regno matura imperaret, nec iurijurando fraus fieret, ut videlicet regnum liberis nondum adultis, propinquorum, qui maxime videretur regno idoneus, is rerum summa praeferretur. Ea mortuo, regni successio ad regis superioris liberos perveniret. Hac postea perpetua lex valuit, per annos M.CCLXXIV. usque ad Kennethum tertium.---Hac lege Ferithbaris, Fergusii frater, regnum est adeptus.*

(b) Page 6th.

“ have adventured upon a Debate in Law, not
 “ being a Lawier, and write on that Subject
 “ without citing one Law, Civil or Municipal.”
 This one Passage shews how ill founded Sir George
 was: But in the Sequel of this Discourse it will
 appear he cites other Laws. It is no Wonder to
 me, that he attacks *Buchanan*, since he expresses
 his Dislike with the Writings of *Blackwood* and
Barclay (a). He says, “ *Blackwood*’s Arguments
 “ are calculated for the *Romish* Church, and *Bar-*
clay has mistaken essential Points:” Nay, he
 seems to suspect his own, when he adds, “ I am
 “ afraid it will be said, that there are too many
 “ new Thoughts in mine.”

Buchanan is not singular in the above Account
 of the Succession of our Kings: For both *Fordun*
 and *Boethius* give the same; whose Words I shall
 set down, *Fordun. Scotichron. lib. 4. c. 1. Nam*
sæpius questio fieri solet, quare non filii communiter
patribus, sicut moderni temporis mos exigit, ad regni
successerunt regimen, potius quam fratres, ut in pre-
cedentium successionibus est expressum? hoc autem illis
sebat diebus, quoniam et iis et Pictis, plerisque regno-
rum regibus, etiam et imperii quibusdam principibus,
eadem succedendi lex erat, scil. ut regis cujusque dis-
cedentis frater aut filius fratris, si illius regis etate
non fuerat, ac habilitate potior, quamvis gradu re-
motior, ipsum præcederet ad regnandum, non enim
sanguinis propinquitas, sed perfectæ pubertatis habili-
tas, hunc vel illum regni throno iustulit, ad regnan-
dum, hujusmodi vero regnationis constitutio prius in-
valuit, quia primitivæ gentis paucitas exigua cum ef-
set numero brevi, certum in acquirendo sibi, sive ser-
vando

(a) Page after the Title of his Book.

vando cum libertate sedem, undique bellis exposita, non solum sui regni, sed etiam corporum abhorrens regimen tradi juvenibus. Hanc legem prætextatam, talis quoque successionis regie mos præscus, usque ad tempus Malcumbi filii Kennethi continuo durabat. Boethius Hist. Fol. 12. Fergusia rege fatali necessitate sublato, conditis comitiis, ubi aderant primores, regis deligendi causa, diu certatum est, multumque variatum est sententiis: nam superfuerunt liberi duo impuberes Fergusii, et quia puerilis ætas ad administrationem inepta est, ideo sancitum fuit, publica auctoritate, ut decedente rege, filio relicto impubere, regie familie, ad publica munera obeunda maxime idoneus, summa rerum potiretur. Eo vita functo, regie proli, jam tum per ætatem, maturæ ad imperium sine questione deferretur regnum: eademque lege vetitum, ne in discrimen publica aliquando libertas duceretur, pueros regnare.

From the Account given by these Historians, it is evident, first, that *Ferlegus* the eldest Son of *Fergusius*, did not succeed him. 2dly, That during the Minority of *Ferlegus*, there was not a Regent to act in his Name. 3dly, That *Feritharis*, the Brother of *Fergusius*, was made King. 4thly, That *Feritharis* was not obliged to resign, when *Ferlegus* came to the Years of Majority, but that he possessed till his Death. 5thly, That upon the Death of *Feritharis*, *Mainus Fergusius*, his second Son, did succeed him; it seems that *Feritharis* out-lived *Mainus*. 6thly, That a Law was made for the Order of Succession to be in this Manner for the Time to come. 7thly, That this Law obtained till the Days of *Kenneth III.* for 1274 Years. 8thly, That this Method of Succession obtained among the *Picts*, and the most

of Kingdoms. And *lastly*, That the Proximity of Blood was not to be regarded as to a Successor, but the Ability of one for Government in one come to Years of Manhood: If one was better qualified for the Administration, he was to be King, though he was not next of Kin.

Sir *George* forms an Argument from the Oath the Chiefs of the Clans gave to *Fergus*, when they acknowledged him for their King (a); "They swore, that they should never admit of any other Form of Government than Monarchy, and that they should never obey any except him and his Posterity, which if they brake, they wished that all the Plagues and Miseries that had fallen upon their Predecessors, might again fall upon their Posterity, as the Punishment of that Perjury." As to this Oath, which is more distinctly expressed by *Buchanan*, than any other of our Historians, it is plain, that it was binding on them, who took it: But it doth not appear, that it was binding on all the Descendants for ever from them; for the *Scots* thought otherways, by the Law they made concerning the Succession of their Kings, which they observed for above 1200 Years. Now let us try how Sir *George's* Explication of this Oath, as to the Imprecations he mentions, will agree to King *Cha. II.* his breaking the Oath he took at his Coronation. The Parliament of *Scotland*, when he was in Exile, notwithstanding of the prevailing Power of *Cromwell*, caused him to be proclaimed King of *Scotland*, yet they did not restore him to the Exercise of his regal Government, till he should

(a) *Jus Reg. p. 27.*

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give sufficient Security by his Coronation Oath, to rule them according to the Word of God, and the Laws of the Land: They had Reason to insist on this; for they knew what Progress he had made towards Popery in his Exile, by going to Mass, and making a private Treaty with the Crowns of *France* and *Spain*, to the Prejudice of the Protestant Interest. See the Life of King *Charles II.* p. 220. when the Parliament of *Scotland* set the Crown on his Head, and engaged in a War with *England*, and employed their Lives and Fortunes for recovering his Right, he entered into a solemn Covenant with them: And in his Declaration, *anno* 1650, he says, "He is firmly resolved, in the Lord's Strength, to adhere to, and prosecute the Ends of it, to his Power, really, constantly and sincerely, all the Days of his Life." But they not only set the Crown on his Head at first, but, after nine Years Exile, were greatly instrumental in his Restoration. In his Letter to the Presbytery of *Edinburgh*, September 3d, 1660, "He assures them of his Resolution to protect and preserve the Government of the Kirk of *Scotland*, as it is settled by Law, without Violation." He had also in his Declaration at *Breda* promised, "That a Liberty shall be granted to tender Consciences, and that no Man shall be disquieted, or called in Question, for Difference in Opinion, which doth not disquiet the Peace of the Church." And accordingly, in his Speech to the Parliament of *England*, for hastening the Act of Indemnity, "My Lords, *said he*, if you do not join with me in extinguishing these Fears, which keep Mens
 F " Hearts

“ Hearts awake, and apprehensive of Safety, you
 “ keep me from performing my Promise, which
 “ if I had not made, I am perswaded, that nei-
 “ ther you nor I had been here; I pray you let
 “ us not deceive these who brought or permit-
 “ ed us to come together.” But did he keep
 his solemn Oath? Did he not, in a notorious
 Manner, violate publick Faith, and make Laws
 contrary to his Oath, his Promise and Declarati-
 on? In the second Session of his first Parliament
 in *Scotland*, the Matter of the Covenant is declar-
 ed unlawful, and the Covenant was annulled;
 and in *Queensberry's* Parliament, about twenty-four
 Years after this, it was ordered to be renounced,
 and declared to be high Treason for any to ad-
 here to it. At this Time Sir *George* had an active
 Hand in the publick Management, and printed his
Jus Regium in the Year 1684. Now for him to
 cry out against the Perjury of the ancient *Scots*,
 when they fell upon a *Salvo*, which they thought
 secured them from the Imputation of Perjury,
 when he was so instrumental in obliging, by a
 Law, many to perjure themselves upon the high-
 est Penalty, if they did it not; With what Grace
 doth Sir *George* appear with his Argument, taken
 from that Oath, which is not binding on the Po-
 sterity of those who did swear it?

The Law determining the Method of Successi-
 on upon the Death of *Fergus* continued in Force,
 till the Days of *Kenneth III.* who did abrogate it,
 by a Constitution which he made contrary to it,
 which Constitution was of no Continuance; for
Milcolumb his Son did not immediately succeed to
 him, but *Constantine* the Son of *Culen*, who by
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the whole Nobility had it given to him; *Grimus* succeeded to *Constantine*; at length *Grimus* being slain, *Malcolm* came to the Crown: This is a plain Interruption of the hereditary Right. Bishop *Lesly* narrates this (a); "The whole Nobility gave the Empire in Charge to *Constantine* the Son of *Culen*, who altered the Law lately made by *Kenneth*, concerning the Succession of the Kingdom. *Grimus* succeeded to *Constantine*; at length *Grimus* being slain, *Malcolm* is made King." And *Boetius* (b) gives us a large Account of it. From the Reign of this *Malcolm*, *Fordun* gives us an Account of the Interruption of the Succession of our Kings: He says (c), "Hitherto, GOD be praised, the Posterity of this invincible King did happily succeed in *Scotland*, except that in some corrupt Periods *Macbeth*, and *Lulach* a Fool, *Donald Bane* his Brother, and *Duncan* the Bastard Son of *Malcolm Canmore*, who had no Right in Law, did actually usurp the Government successively for a short Time."

After so well asserted a Narration of the Succession of our Kings, contrary to the pretended hereditary Right, it must be astonishing to meet with

(a) *Gest. p. 190.* *Constantino Culeni filio nobilitas universa imperium mandavit, et legem de regni successione a Kennetho nuper latam violavit; Constantino successit Grimus, tandem Malcolmus occiso Grimmo honore regio afficitur.*

(b) *Hist. Fol. 333, 334.*

(c) *Scotichron. lib. 4. cap. 42.* *Huc usque, laus Deo, posteritas hujus invictissimi regis feliciter in Scotia successit, praterquam quod per quedam corrupta intervalla Machabeda, et Lulach fatuus, Donaldus Bane frater, et Duncanus nothus Malcolmus Canmore, modicis vicissim temporibus, sibi regnum, nullo juris titulo premissis, de facto usurpabant.*

with an Act of Parliament, asserting the opposite Doctrine, under the Reign of K. Charles II. *Act 2. Parl. 3. anno 1681*, “The Estates of Parliament considering, that the Kings of this Realm derive their Royal Power from GOD Almighty alone, do succeed lineally according to the known Degrees of Proximity of Blood, which cannot be interrupted, suspended, or diverted by any Act or Statute whatsoever; and that none can attempt to alter or divert the said Succession, without involving the Subjects of the Kingdom in Perjury and Rebellion, and without exposing them to all the fatal and dreadful Consequences of a Civil War; do therefore, from a hearty and sincere Sense of their Duty, recognize, acknowledge and declare, that the Right to the Imperial Crown of this Realm is by the inherent Right, and the Nature of the Monarchy, as well as by the fundamental and unalterable Laws of this Realm, transmitted and devolved by a lineal Succession, according to the Proximity of Blood : ---- Likeas, do declare it is high Treason, in any of the Subjects of this Kingdom, by writing, speaking, or any other Manner of Way to endeavour the Alteration, Suspension, or Diversion of the said Right of Succession, or the declaring the next lawful Successor from the immediate, actual, full, and free Administration of Government, conform to the Laws of the Kingdom; and that such Attempts and Designs shall infer against them Pains of Treason.”

This strange and monstrous Act was past *August 13. 1681*, after we had wanted Parliaments for

for the Space of nine Years, and truly the Kingdom would have been at no Loss to have wanted this. The King's high Commissioner to this Parliament was the Duke of *York*, the Pretender's supposed Father; a professed Papist. In the preceeding Year a strong Effort had been made in *England*, for the second Time, by many Protestants, of great Note and Birth, against a Popish Successor, by a Bill for excluding the Duke. The Lord *Russel*, with the Lord Mayor of *London* and *Cavendish*, and about 200 of the House of Commons, presented it to the House of Peers: But the King being in the House, when it was to have a second Reading, it was refused, and so it was crushed. Our Parliament would not be behind Hand with the *English* House of Peers, but would exceed them in their Attachment to the Duke; they went to an amazing Height in asserting the hereditary Succession, and threatened the most dreadful Pains, if any should so much as either write or speak against it. This Act asserts, that the Kings of *Scotland* derive their Power from GOD Almighty alone, a Phrase not known in *Scotland* till the Restoration. Our Historians harmoniously inform us, that the *primores regni* made our Kings, and when any of them became Tyrants, and subverted the Laws and Rights, the Liberties and Properties of the Subjects, they laid them aside, and put others in their Room. This Assertion of the Parliament is contrary to most certain Facts, and Facts are such stiff Things, as cannot be discredited by any Authority whatsoever, not by an Act of Parliament, their saying it, does not make it be: But to confront the Duke

Duke of York and his Parliament, I shall oppose to their Act a Letter of the principal Nobility and Persons of the greatest Consideration in the Nation, *anno* 1320, in Latin; it is directed to Pope John; it is printed with Sir George Mackenzie's Observations on Precedency, in Mr. Anderson's Appendix to his Treatise on the Independency of Scotland, and several other Books, wherein they assert Bruce's Right of Succession, Baliol's Proximity of Blood notwithstanding (a), "By the Divine Providence, and according to the Laws and Customs of the Kingdom, and the due and lawful Consent and Assent of all the People, we have made him our King and Prince; --- but if he shall consent that we, or our Kingdom, shall be subjected to the King or People of England, we will immediately endeavour to expel him, as our Enemy, and the Subverter of his own and our Rights; and will make another King, who will defend our Liberties." This Letter was dated at the Monastery of Arbrothock, April 6. 1320, and of the King's Reign the 15th. The principal Earls, Barons, and Freeholders of the Kingdom, to the Number of 38, are therein expressly designed. This Letter fully confutes that Part of the Act 1681, which says, that the lineal Succession can-

not

(a) *Quem etiam divina dispositio et juxta leges et consuetudines nostras ----- juris successio et debitus nostrorum consensus et assensus, nostrum fecerunt principem atque regem. ----- Quem si ab incæptis desisterit, regi Anglorum aut Anglicis, nos aut regnum nostrum volens sujicere, tanquam inimicum nostrum et sui nostrique juris subversorem, statim expellere nitremur et alium regem nostrum, qui ad defensionem nostram sufficeret, feceremus.*

not be interrupted, suspended or diverted: In the said Act, anno 1681, they say, "That if any attempt or endeavour to alter the Succession, they involve themselves in Perjury." But we want to know, where there is an Oath to be found taken by the Nation or its Representatives, obliging them and their Successors to maintain the lineal Succession.

To the above Letter, I shall subjoin a Part of a Manifesto or Declaration of the Clergy of Scotland, given in a National Council of Scotland, holden in the Church of the Minorites of Dundee, February 24th, anno 1309, which is to be found both in *Latin* and *English*, in Mr. *Anderson's* Appendix (a), when there was a Controversy, say they, "between *John* Lord *Baliol* late King of Scotland, advanced by the King of England, and the deceased Lord *Robert Bruce* of worthy Memory, Grandfather of the present King *Robert*, which of them was nearest in Blood,

(a) Append. Num. 12. Cum inter dominum Joannem Balliolum dudum regem Scotia per regem Anglia de facto promotum, et recolende memoria quondam dom. Rob. de Brus avum D. Roberti regis, qui nunc est, orta fuisset materia questionis quis eorum proximior esset. Jure sanguinis ad hereditandum et regnandum super populum Scoticanum, fidelis populus, sine dubitatione semper tenuit prout a suis antecessoribus et majoribus intellexerat, et credidit verum esse quod dictus dominus Robertus avus verus heres extitit, et cunctis aliis ad regni regimen preferendus---in dictum dominum Robertum regem, qui nunc est, in quem jura patris avique sui ad predictum regnum judicio populi adhuc residet et vigent incorrupta, auctore domino convenerunt, ac de conscientia et consensu eorundem assumptus est in regem, ut regni deformata reformet, corrigendaque corrigat, et dirigat indirecta, et ipsorum auctoritate regno preficiat, rex Sctorum solemniter est effectus.

“ to inherit and reign over the People of *Scotland*,
 “ the loyal People of *Scotland*, without Hesita-
 “ tion, did always maintain, as they did under-
 “ stand from their Forefathers and Predecessors,
 “ and were firmly persuaded, that the said Lord
 “ *Robert* the Grandfather, was after the Death of
 “ King *Alexander*, and of his Niece, the Daugh-
 “ ter of the King of *Norway*, the true Heir; and
 “ should have been preferred to the Crown before
 “ all others:--The People, by the Favour of
 “ Heaven, agreed upon the said Lord *Robert*,
 “ now King, in whom the Right of his Father and
 “ and Grandfather to the foresaid Kingdom, by
 “ the Judgment of the People, doth yet remain
 “ and continue entire, and by the Authority and
 “ Consent of the said People and Commonalty,
 “ he is assumed to be King.” From the above
 Letter, it appears, that the Nobility assert their
 Power of making a King, and of laying him aside,
 in very strong Terms: And from the Manifesto
 of the Clergy it is plain, that they own the same
 Power of the People, *i. e.* of their Representatives
 in making a King.

Bishop *Lesly* (a) gives us an Account of an an-
 cient Treaty between the *Scots* and *French*, where-
 in was agreed betwixt both Nations, “ That if
 “ the lawful Heir of either Kingdom is not
 “ known, for preventing all Contentions, he
 “ (whom

(a) *Gest. p. 236. Robertus Brusius ad Francum, de re-
 novando, cum illo, fœdere legatos decrevit. Francus li-
 bens acquiescit, ac prioris fœderis conditiones, hoc articulo,
 Scoto non invito, augendas curat; ut scilicet si Francici
 aut Scotici regni legitimus hæres non cognoscatur, ad sopi-
 endas contentiones, ei (quem consensus nobilium ex utro-
 que regno conflatus decernit) regni administratio mandatur.*

“ (whom the Assembly of the Nobility of both Nations shall declare for) shall have the Government of it committed to him.” From this it is plain, that both Kings supposed that the Right was defeasible, and therefore they provided in that Case ; for if it shall fall out that the Heir, or the next in Blood cannot be known, and there shall be Contentions, who has the Proximity of Blood ; it may possibly fall out, that the wrong Person shall be declared Successor, especially, if the Nobility of both Nations should differ in their Sentiments.

But I go on to shew, that for a long Space of Time, the Succession to the Crown of *Scotland* was not by Proximity of Blood ; or that the next of Kin was not much regarded in making of our Kings ; for the Succession went often by the collateral Line ; *Reutherus* our 6th King did not immediately succeed his Father *Dornadilla*, but his Brother *Nothatus* : *Reutherus* got not in to the Throne, till his Uncle had reigned twenty Years. *Thereus* our eight King did not succeed to his Father *Reutherus* immediately, but *Reutha* his Father Brother's did : This *Reutha*, after he had reigned 14 Years, others say 17, was glad to resign : *Thereus* then came to the Throne. *Corbre-dus* II. did not succeed his Father, but one *Dardanmus*, Nephew to *Metellanus*, did interveen, and reigned four Years. *Ethodius* II. did not immediately succeed his Father ; but the Reigns of *Satrael* and *Donald* I. did interveen, the former reigned more than three Years, and the latter above 17 ; so that *Ethodius* was kept out for above 20 Years. *Findocus* did not immediately succeed

Alhirco. his Father; for *Alhirco* having vitiated the Daughter of *Nathalock* a Nobleman, this *Nathalock* made himself King; but after his Reign of ten Years, *Findocus* succeeded: *Crathilintus* our 34th King did not immediately succeed his Father *Findocus*, but the Reigns of *Donald II.* and *Donald III.* did interveen. *Eugenius I.* did not immediately succeed his Father *Fincormachus*; nay, not till the Reigns of three Kings, viz. *Romachus*, *Angusianus* and *Fethelmachus*, his Brother's Sons did interveen.

Thus I have given an Account of several Interruptions of the Succession from *Fergus I.* to *Fergus II.* If here it shall be objected, That our History, for that long Period, is fabulous, and that *Lloyd*, Bishop of *St. Asaph*, in his *Historical Account of the Church Government of Great Britain*, and that Mr. *Innes* in his *Critical Essay*, for solid Reasons cut off no less than forty of our Kings, I refer them to Sir *George Mackenzie's Antiquity of the Royal Line of Scotland*, defended against *Lloyd* and Dr. *Stillingfleet*. But I shall be so good as to yield it to *Lloyd*, *Stillingfleet* and *Innes*: But then let our *Scots Jacobites* and the young *Chevalier* give over their boasting of an hereditary Succession by a longer Race of Kings in *Scotland*, than in any Kingdom in the known World.

I shall now shew that from *Fergus II.* down to *Robert Bruce*, there have been many Interruptions of the hereditary lineal Succession. *Congallus I.* did not succeed his Father *Dongardus*, till *Constantine I.* had reigned full 22 Years. *Aidanus* did not succeed his Father *Goranus*, till *Eugenius III.* and *Congallus II.* and *Kinnatillus* had amongst

mongst them reigned full 35 Years. *Eugenius IV.* did not succeed his Father; but *Kenneth I.* did. *Mulduinus* did not succeed his Father *Donald*, till *Donald's* Brother had reigned more than 17 Years. *Eugenius VI.* did not immediately succeed his Father *Ferchard*; but the Reigns of *Malduine* and *Eugenius V.* did interveen. *Murdacus* did not immediately succeed his Father, but *Eugenius VII.* did, who reigned 17 Years. *Etfinus* did not immediately succeed his Father *Eugenius VII.* till *Murdacus* had reigned 15 Years. *Achaius* did not succeed his Brother *Fergus III.* till *Solvathius* had reigned full 19 Years. *Alpinus* did not succeed his Father *Achaius*, till *Congallus*, *Achaius's* Father's Brother's Son, and *Dongallus* the Son of *Solvathius*, had between them reigned eleven Years. *Constantine II.* did not succeed his Father *Kenneth II.* but *Donald V.* did. *Malcolm I.* did not succeed his Father *Donald VI.* but *Constantine III.* did. *Duffus* did not succeed his Father *Malcolm* immediately, but *Indulphus* did. *Constantine IV.* did not immediately succeed his Father *Culenius*, but *Kenneth III.* did. *Malcolm II.* did not immediately succeed his Father *Kenneth*, but the Reigns of *Constantine IV.* and *Grimus* did interveen. *Malcolm Kenmoir* did not succeed his Father *Duncan I.* but *MacBeth* did. *Edgar* did not succeed his Father, till the Reigns of *Donald VII.* and *Duncan II.* did interveen.

What has been advanced is more than sufficient to demonstrate, that the Succession of our Kings was not always continued (*continuo in genere proximos*) as Mr. *Ruddiman* asserts, by Proximity of Blood, the Succession having been inverted by Usurpations

tions or cross Elections in every two or three Generations. After an Induction of so many Instances, I may apply to those Kings, what *Drummond of Hautbornden* wittily says in his high Commendation of *James I.* the best of our Kings; “ The Nation made them Kings; but this King
“ made the People a Nation.”

My Vouchers, for the above Account of the Succession of our Kings, are the Table of the Kings of *Scotland*, printed with Sir *John Skeen's* Edition of the Acts of Parliament, Sir *Thomas Murray's Chronological Table*, licensed by *Charles II.* printed anno 1681. These two Tables agree in omnibus, so far as Sir *John Skeen's* goes: There is likewise a Table of our Kings by *Alexander Gordon* Professor of Philosophy at *Aberdeen*, in the Reign of King *James VI.* with this Title, *The Theatre of the Kings of Scotland*; wherein he gives us in Rhyme the Character of the Kings of *Scotland*, both good and bad, with the Order of their Succession: And, lastly, Mr. *Ruddiman's* own Table prefix'd to his Edition of *Buchanan's* History, wherein, tho' he differs sometimes from the other Tables as to the Years of the Reigns of our Kings, yet as to the Order of Succession he agrees with them.

I shall subjoin to all I have advanced against the Doctrine of the hereditary Succession of the Kings of *Scotland*, some other Topicks. First, Some of our Kings came to the Throne by Usurpation. *Constantine IV.* surnamed *Calvus*, is styled an Usurper, for *Kenneth III.* had abrogated the Law of Succession, which clearly made it elective, and got it ordained in Parliament, that the Succession should be lineal, that the Son should inherit;

herit ; and if he were a Minor, be governed by some wise Men, and that at Fifteen he should chuse his Guardian himself. But *Constantine*, by his Reasoning against this Act, perswaded the most of the Nobility to make him King ; so that notwithstanding *Kenneth's* Act, his Son was kept from the Succession. *Grimus* our 82d King was another Usurper, as to whose Birth our Historians are not agreed ; some making him the Son of *Duffus* our 78th King ; others the Son of *Mogallus*, *Duffus's* Brother : But it is no Matter which, for *Kenneth's* Act excluded him, he not being in a lineal Succession from *Kenneth*, yet it was agreed, he should enjoy the Kingdom for Life. *Donald VII.* surnamed *Bane* was another Usurper, he had promised the Isles to the King of *Norway*, if he would procure him to be King ; this was done with Ease, as the Times then stood : *Skeen's* and *Murray's* Tables call him an Usurper ; and so they call *Duncan II.* an Usurper ; but *Donald VII.* waiting all Advantages, caused him to be beheaded, and restored himself, as is evident from the said Tables. It is plain, that these usurping Kings made an Interruption of the hereditary lineal Succession.

2dly, Some of our Kings were Bastards ; this Mr. *Ruddiman* himself notices in his Table, that *Gillus* was one, calling him *notbus* ; and so does *Skeen's* and *Murray's* Tables, and, according to Bishop *Lestly* (a), he reigned three Years ; he was the Bastard Son of *Euenus*, and succeeded his Father. *Duncan* our 38th King was the Bastard Son of *Milcolm* : He usurped the Crown, according

(a) *Gest.* p. 88.

ing to the two foresaid Tables, and though Mr. *Ruddiman* in his, does not call him *nothus*, as he did *Gillus*, yet in his Annotations (a) he relates, that among the Archives of the Church of *Durham* there is an authentick Charter, wherein this *Duncan* grants to *St. Cuthbert* and his Servants (*servitoribus*) some Lands; and though he was a Bastard, affirmed, that it was evident, that he is the hereditary King of the *Scots*; but surely a Bastard by our Law cannot inherit. I am not satisfied with a Kind of Apology, which Mr. *Ruddiman* makes in this Case (b); “It is to be observed, says he, that in that and some following Ages, the Name of *Bastard* was not such a Disgrace as now it is thought to be, since not many Years ago *Duncan* did rule over the *Scots*, and *William* over the *English*, tho’ both were begotten by an unlawful Coition:” For Mr. *Ruddiman* afterwards (c), in the Case of *Robert II.*’s Wives and Children, greatly quarrels *Buchanan*’s Narration, “because it brings a Disgrace not only on the royal Family of *Scotland*, but also on the most illustrious Families of *Europe*, as making them to have descended from a Bastard.”

Others

(a) P. 422. Col. 1. Extat in archivis ecclesia Dunelmensis charta authentica, qua hic *Duncanus*, *Sto. Cuthberto*, ejusque servitoribus, terras aliquas donat; quaque etsi *nothus* esset, se hereditario *Scotorum* regem constare affirmat.

(b) P. 422. Col. 1. Ne quis autem aliquam inde *Scotorum* regibus contumeliam inustam existimet, advertendum est, eo et sequentibus aliquot seculis, non tam probrosum fuisse atque nunc est *nothi* nomen, cum paucis ante annis, *Duncanus* *Scotis*, *Gulielmus* *Anglis*, uterque illicito concubitu genitus imperitarent.

(c) P. 432. Col. 2. Turpissimam non regia apud *Scotos* modo, sed splendidissimis tota *Europa* familiis, maculam inusserunt.

(a)

Others of our Kings did not succeed by an hereditary Right, but were raised to the Royal Dignity, because of their remarkable Qualifications, and eminent Virtues: My Voucher is Bishop *Lesly* (a), “ *Ethfinus* (says he) the Son of *Eugenius* VII. by the publick Shouting of all was appointed King, being wonderfully accomplished with all the Ornaments of Virtue.” His Father died recommending *Mordacus* the Son of *Amberkelleth*, his Brother, to be King, who reigned near sixteen Years: However, when this *Mordacus* died, for the Reason assigned by *Lesly*, he was advanced to the Throne. After the Death of *Solvathius*, *Achaius* the Son of *Ethfinus*, succeeded, who, as *Lesly* (b) relates, of all Men was most eminent for his most penetrating Wit, and singular Benevolence, was judged worthy to sway the *Scottish* Sceptre. In the Table he is called a peaceable, good, godly Prince; and yet this Man was kept from the Succession till *Eugenius* VIII. *Fergus* III. and *Solvathius* had reigned.

Again, as to this pretended hereditary Right to the Kingdom of *Scotland*, if it went by Proximity of Blood, it should extend to Females, failing the Male. These who are for the patriarchal Scheme, restrict it, with Sir *Robert Filmer*, to the Male Line, to the eldest Son, and failing him, and other Sons of the King, a Male in the collateral Line is to be admitted, to the Exclusion of a Daughter, tho’ she has the Right by Proximity of Blood; and yet *Semiramis*, a Queen at no great Distance from the Division of Nations, reigned for a long Time, and was obeyed by her Subjects.

(a) *Gest.* p. 159. (b) *ibid.* p. 165.

Subjects. And in the sacred Writings we read of *Deborah* (a), that she judged in *Israel*, when the *Israelites* were under the Oppression of *Jabin* King of *Canaan*; but whether she judged as a Princess, having Civil Authority, deciding in Controversies betwixt Man and Man, or as a Prophetess, being endowed with Divine Wisdom, by the Inspiration of GOD, for reforming their impious Lives, and idolatrous Worship, it is not certain. These who are for Gunarchy, the civil Government of Women, failing the Sons, maintain she had a great Knowledge of the Law of *Moses*, whereby the *Israelites* were to be governed; that she gave Decisions in civil Affairs, and did put the Laws in Execution; and that she did take upon her the other Part of the Government, the military Government, seems to be evident; for she delivered them from the Oppression and Tyranny of *Jabin*, and commanded in the War with Success: We read likewise (b) of the Queen of *Sheba*, or, as she is called by our Saviour, *the Queen of the South*, viz. from *Canaan*, she seems to have been the Sovereign of her Country: We have also Mention made (c) of one *Candace* Queen of *Ethiopia*. Now I must ask our *Jacobites*, whether they go in to the patriarchal Scheme, which gives the hereditary Right to the Male only? If they do, they must abandon the Cause of Queen *Mary* of *Scotland*: If they do, what Ground have they to inviegh against Mr. *Knox* our Reformer, who wrote a Book against the Government of Women, so full of Learning and Argument, that, to this Moment, I have never seen a satisfying Reply made to it?

And

(a) Jud. iv. 4. (b) 1 Kings x. 1. (c) Acts viii. 27.

And what Ground have they for all their Clamour against *Buchanan*, for writing for the Cause of her Son against her? Or will our *Jacobite* Antagonists appear still for her Cause, they must renounce the patriarchal Scheme, their main Support for hereditary Right: The Horns of this Dilemma cannot miss to push sore. There are some few Instances of the Government of Women that have proved to be a Blessing and Happiness to a Nation, as Queen *Elizabeth* to *England*, and Queen *Anne* to *Britain*; yet it is certain, that the Arguments against Gunarchy are so strong, and the Inconveniencies attending it are so many, that it is not to be chosen, and these Inconveniencies are so apparent, that unless the Ministry be so wise and good, as it happened in their Reigns, a Nation must be exposed to Dangers during their Administration; and a Woman that is not able to govern herself, is not fit to rule over a Nation of Men: For this Reason it is, that the Salique Law takes Place in *France*. It would seem that our Forefathers were much disposed to exclude Women from the royal Administration; so that they did not regard the Proximity of Blood. As to this I shall give a few Instances. Upon the Death of *Caratacus* our 18th King, according to our chronological Tables. *Corbredus* succeeded him, though he had a Daughter that survived him: She indeed never married, yet since she was next in Blood, how could she in Justice be kept from the Succession? *Boetbius* (a) acquaints us, "that "*Caratacus* the King left behind him an only "*Daughter, not fit for the Marriage-bed, being*
H " always

(a) Hist. Fol. 49.

“ always sickly ; wherefore, to the End of her
 “ Life she remained in a State of Celibacy, with-
 “ out knowing a Man.” If this was Fact, the
 Succession upon the Right of Proximity of Blood
 was interrupted. This will further appear from
 a Declaration of the Estates of *Scotland*, concern-
 ing the Settlement of the Crown in the Days of
 King *Robert Bruce* at *Air*, anno 1315 ; a Copy
 of which Mr. *Anderson* gives us in his *Appendix*,
Numb. 24. wherein it is statuted, “ That if it
 “ shall happen, which GOD forbid, that our
 “ Lord the King shall die not having an
 “ Heir-male of his own Body, the noble Lord
 “ *Edward Bruce* his Brother, a brave Man, and
 “ expert in the Art of War, for the Defence of
 “ the Right and Liberty of the Kingdom, and
 “ his Heirs-male lawfully procreated of his Bo-
 “ dy, shall succeed our Lord the King.” This
 was afterwards confirmed by an Act of Parlia-
 ment, in the Reign of the said *Robert Bruce*, for Se-
 curity of the Kingdom, anno 1318 ; a Copy of which
 Mr. *Anderson* also gives in his *Appendix*, *Numb. 25.*
 By this Entail *Marjory*, King *Robert's* Daughter,
 was excluded. Both the Declaration and the Act
 are in Latin.

I know no Female that ever had the sovereign
 Power in this Kingdom, but Queen *Mary*, and
 surely her Reign was not for the Interest of it.
 And for Queen Regents during the Minority of the
 Prince, we read only of two. Queen *Margaret*,
 Mother of King *James V.* she, finding her Au-
 thority was weak, and that she only had the Name
 of governing, married the Earl of *Angus*, with a
 Design of transferring the Reins of Government in-

to his Hand ; but this was the Cause of great Disorders and Mischiefs, by different Factions that rose up. The other was Queen *Mary's* Mother, whose Design was to have this Nation brought under the Power of *France*, by bringing in Troops from thence to conquer and enslave us.

I shall now proceed to give an Account of a famous Interruption of the hereditary Succession by the Bastardy of *Robert III.* our 101. King, which we have narrated by all our Historians, *Fordun* or his Continuator, *Major*, *Boethius*, *Lestly*, *Buchanan* and *Hautbornden*, and by several *English* Historians, and yet our Historians inveigh chiefly against *Buchanan* ; for it seems that his writing impartially, and with great Freedom, of our bad Kings in his History, and his Principles of Civil Government, and his masterly Reasoning on that Subject in his Dialogue *de jure regni* ; and the Discoveries concerning Queen *Mary* in his *Detection*, are unpardonable Offences. I shall give *Buchanan's* Account of the Bastardy (a) ; “ *Euphe-*
mia,

(a) *Hist. p. 168. Eufemia Regina, Hugonis Comitis Rossia filia, moritur. Ex ea ternos libros genuerat, Valterum posterius Atholia et Davidem Iernia Comites, et Eufemiam, quam Jacobo Duglassio nupsisse a nobis ante commemoratum est. Robertus non tam impatientia cœlibatus, quam amore filiorum ex Elizabetha Mora prius genitorum, ipsam uxorem duxit. Hanc enim eleganti forma, Adami Mori illustris Equitis filiam, adhuc adolescens vehementer amarat, ex eaque tres filios, ac duas filias susceperat ; eamque, Giffardo viro nobili in Lothiana curaverat collocandam. Verum sub idem fere tempus, Eufemia Regina, et Giffardo Elizabetha marito defunctis, Rex, sive consuetudine venire Mora inductus, sive (quod a multis traditur) ut filios quos ex ea genuerat legitimos faceret, matrem eorum sibi matrimonio junxit : filios statim divitiis et honoribus auxit. Joannes natus maximus Cariotta, Robertus Taichia, Alexander Buchania*

“ *mia*, Daughter to *Hugh Earl of Ross*, died ; the
 “ King had three Children by her, *Walter Earl*
 “ of *Athol*, *David Earl of Strathern*, and *Euphemia*, whom *James Douglas* married. *Robert*,
 “ not so much for the Impatience of his unmar-
 “ ried State, as for the Love he had for his Chil-
 “ dren by *Elisabeth Mure*, made her his Wife.
 “ This Woman, the Daughter of *Sir Adam Mure*,
 “ was exceeding beautiful ; the King fell in Love
 “ with her when he was young, and had three
 “ Sons and two Daughters by her, and bestowed
 “ her on *Giffard* a Nobleman in *Lothian* ; but
 “ *Euphemia* the Queen, and *Giffard*, *Elisabeth's*
 “ Husband, died much about the same Time ;
 “ the King, either for the old Familiarity he had
 “ with *Elisabeth Mure*, or (as many report) to le-
 “ gitimate the Children she had by him, was
 “ induced to marry her, and quickly bestowed
 “ Honours and Riches upon them. *John* the el-
 “ dest was made Earl of *Carrick*, *Robert* of *Mon-*
 “ *teith*, and *Alexander* of *Buchan*, *Badzenoch* being
 “ adjoined : But not being satisfied with this
 “ Munificence, he obtained from the Parliament
 “ met at *Scoon*, that, passing by the Children of
 “ *Euphemia*, in making a King after him, they
 “ should observe the Order of their Age.” Mr.
Ruddiman's Annotation on this Passage (a) is,
 “ That

nia Comites sunt facti, et lecta etiam Badenacha. Nec hac munificentia contentus, Comitibus ad Sconam indictis, obtinuit, ut, prateritis Eufemia liberis, in Rege creando, gradus etatis observarentur.

(a) Annot. p. 432. Col. 2. Tota hac, qua de Roberti II. uxoribus et liberis sequitur narratio, merum est auctorum nostrorum figmentum, vel potius mendaciorum mali concinatorum congeries. Ejus autem primus architectus fuisse vide-
 tur,

tur,
 scrip
 quun
 Scot
 culan
 a sp
 vider
 us h
 sum
 Angl
 Paris
 thent
 luce
 ram
 2. Ea
 cum
 Stuar
 et diu
 Rege
 Robert
 dem r
 tus re
 Brad
 &c. a

" That this whole Narration concerning *Robert's*
 " Wives and Children, is a Collection of Lies
 " badly put together : That the Contriver of it
 " was one *Russel*, the Continuator of *Fordun's*
 " History, whom our other Writers (*Major*
 " perhaps being excepted) unwarily follow, and
 " vilely brand, as much as in them lies, not on-
 " ly the Royal *Scottish* Family, but the most il-
 " lustrious Families of *Europe*, as being descen-
 " ded from a Bastard : But this, by the Provi-
 " dence of GOD, and Industry of learned Men,
 " is exposed as fabulous, viz. by the Earl of *Cro-*
 " *marty*, *Tho. Rymer* the *English* Historiographer,
 " and *Lewis Innes* Principal of the *Scots* College
 " at

iur, Russellus, quidam Forduni continuator : quem dum alii
scriptores nostri (uno forte Majore excepto) improvide se-
quuntur, turpissimam (quod in ipsis erat) non Regie apud
Scotos modo, sed et splendidissimis tota Europa familiis ma-
culam inusserunt, quippe quas (siquidem vera narrant)
a spurio propagatas esse necesse est. At divini numinis pro-
videntia et doctorum virorum industria factum est, ut toti-
us hujus fabule series et artificium jam tandem sit excus-
sum; nobilissimus enim Cromartia Comes, Tho. Rymerus
Anglia historiographus, Ludov. Innesius Scotici collegii apud
Parisienses gymnasiarcha, ex quam plurimis documentis au-
thenticis in Scotia, Anglia et Gallia, adhuc exstantibus,
luce meridiana clarius demonstrarunt. 1. Elizabetham Mo-
ram primam fuisse non secundam, Roberti II. uxorem.
2. Eam non modo ante ipsius Regni initium, sed et nuptias
cum Euphemia contractas mortuam fuisse. 3. Joannem
Stuartum Elizabethæ filium, regnante adhuc Davide Bruffio,
et diu antequam pater ipsius Robertus rerum potiretur, a
Rege Davide, universisque Scotiam incolentibus, legitimum
Roberti filium, ac heredem semper habitum fuisse. Ean-
dem rem isidem illustrarunt, D. Geo. Mackenzæus advoca-
tus regius, D. Jac. Dalrympleus, Josua Barnesius, Rob.
Bradinus, Geo. Crafordius, Jo. Sagijs, Pat. Abercrombius
&c. ad quos lectores istarum rerum curiosos remitto.

" him *David* Earl of *Strathern*, *Walter* Earl of
 " *Atbole*, and *Alexander* Earl of *Buchan*, Lord
 " *Badzenoch*; and after her Death, for the Af-
 " fection he bare to *Elisabeth Muir*'s Children,
 " begotten before his first Marriage, married *Eli-*
 " *sabeth Muir* Daughter to Sir *Adam Muir*, who
 " who had born to him *John*, thereafter called
 " *Robert III.* Earl of *Carrick*, *Robert* Earl of
 " *Fife* and *Monteith*, and *Eupham* Wife to *James*
 " Earl of *Douglas*:" And this *Robert*, in these
 Tables, is surnamed *John Fernzier*, i. e. *John* in
 the former Year. Now let me sum up this Ac-
 count, as Mr. *Ruddiman* has done his. Do not
 these Tables make it clearer than Mid-day, 1. That
Eupham Ross was *Robert*'s first Wife. 2. That
 after her Death he married *Elisabeth Muir*. 3. That
 before he married her, he had by her three Sons,
 who must have been Bastards. And, 4. that
John a Bastard (afterwards called *Robert*) was King
 after him.

Since all our *Scottish* Historians agree with great
 Harmony in the Account that *Buchanan* gives of
Robert's Wives and Children, it will be extreme-
 ly hard for our Antagonists, to assign a Cause of
 their Agreement and Harmony; for tho' it is
 unjustly pretended, that *Buchanan* had a Turn to
 serve, viz. to favour the Earl of *Murray*; yet
 surely the Continuator of *Fordun*, *Boece*, Bishop
Lefly and *Hautbornden*, had no such Views. Will
 it satisfy any disinterested Person, what is ad-
 vanced by Mr. *Ruddiman* (a), That they inadver-
 tently follow *Ruffel* the first Contriver, and that it
 is a mere Fiction of our Authors, or a Heap of Lies
 badly

(a) Annot. p. 432. Col. 2.

badly put together. Is not this a most uncharitable and severe Censure, that can be brought against such learned Men, when no selfish End can be alledged, to make them give the said Narration? The Answer that the Earl of *Cromarty* gives (a), affords as little Satisfaction, viz. "That some
 " Men will not believe the Truth, unless you tell
 " them why our Historiographers did lie." But can this satisfy, when not only our Historiographers relate it, but others in *England*, nay every body else in *Scotland* capable to make Inquiry. Our Kings and our Lawyers took it for granted, till Sir *Lewis Stewart* wrote a Scrape about it, nay after Sir *Lewis's* Death, which he did not think fit to publish, and which this Earl himself says is founded on Papers no where extant, nor to be found. But the Earl not relying upon this Answer, proposes a Conjecture, to account for this Unanimity of our Historians (b); "Perhaps,
 " says he, the first of our Historians, by a supine
 " Inadvertence, having heard, that *Robert II.*
 " after Queen *Eufeme's* Death, had Children by
 " a Concubine, to whom he had great Kindness,
 " and that his Concubine's Name was *Moram*,
 " did ignorantly confound *Moram* with his Wife
 " *Muir.*" The Earl founds his Conjecture on a Charter of King *Robert II.* dated at *Perth* 15th *January*, anno regni nostri 12. This Charter, says the Earl, "Gives you Account of four Sons of
 " King *Robert II.* and two Concubines never
 " mentioned in our Histories, *Moram* seems to be
 " the last of the two Concubines, because her Son
 " *John's* Charter bears a Tailie of his Lands to
 the

(a) *Vind.* p. 73. (b) *Ibid.* p. 74, 75, 76.

“ the youngest Son of *Mariota* ; and failing of
 “ him to the second Son of *Mariota* ; and failing
 “ of him to the eldest Son of *Mariota* ; for ano-
 “ ther granted to *Mariota*, of the Lands de *Ni-*
 “ *gra*, *Aula*, and others, makes *John* to be her
 “ eldest Son, *Alexander* the second, and *James* the
 “ third. What this *Mariota* and *Moram* were,
 “ I know not, that being nothing to our Pur-
 “ pose.” Strange! when he adduceth this Char-
 ter, to shew that the Person who heard, as above
 related, did ignorantly confound this Concubine
Moram, with his first Wife *Muir*. But there is no
 Confusion here ; for do not *Boece*, *Lesly*, as well as
Buchanan, who wrote in *Latin*, turn *Muir*, our
Scottish Name, into *Moram* : By what the Earl
 writes, he seems to oppose Mr. *Ruddiman*, who
 writes, “ That one *Russel* was the first Contriver
 “ of the Story.” For the Earl expressly says,
 “ That the first of our Historians had heard it ;”
 and if it was a Thing reported, he cannot be said to
 have been the Contriver : Mr. *Sage* does not admit
 of this Conjecture (a), he says, “ I am afraid the
 “ Conjecture is very groundless ; I am afraid
 “ that there was no such Concubine as *Moram* ;
 “ and if it is indeed written in the Charter *Mo-*
 “ *ram*, it is but a Contraction for *Mariotam* :”
 But tho’ the Earl calls *Moram* a Concubine, yet
 the Charter insinuates no such Thing ; but the
 Words of the Charter are these, *Joanni Seneschal,*
genito inter nos et dilectam nostram Moram. Now
 this Charter being dated the 12th Year of *Robert’s*
 Reign, he was married to *Moram* some Years be-
 fore this. Mr. *Sage* falls into a very great Blun-

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(a) Introd. p. 42.

der, when he says; That if it is indeed written in the Charter *Moram*, it is but a Contraction of *Mariotam*; for both *Moram* and *Mariotam* are mentioned as distinct Women, and are the Mothers of distinct Children; and the Name *Mariotam* is without any Contraction set down in the Charter; besides, *Moram* does not appear to be a Contraction of *Mariotam*. Mr. *Crawford* (a) contradicts both the Charter and the Earl of *Cromarty*; For, 1st, in ranking the Children of *Mariota de Cardney*, he makes *James* the second Son, but the Earl makes him the third, and the youngest Son. 2^{dly}, The Earl and the Charter say, That it is granted to *John*, begotten between *Robert II.* and his *dilectam Moram*, and that it is tailed to *James* the youngest Son of *Mariota*; but Mr. *Crawford* says it is granted to *John*, begotten *inter nos et Mariotam de Cardney, anno regni nostri 12mo*. Thus we see what Confusion these Advocates for the Legitimacy make with these pretended Charters, and that they are so embarrassed, that the one overthrows what is advanced by the other.

As our *Scottish* Historians agree with *Buchanan's* Account, *Major only perhaps*, says Mr. *Ruddiman*, being excepted, which is owned by the Advocates for the Legitimacy of *Robert III.* so the *English* Historians write in the same Strain. *Holinshed* (b) says, " That *Robert*, incontinently, after the Death of *Eufemia Rosse* married *Elisabeth Muir* his old Lemman, to the End, that the Children he had by her might be made legitimate, by virtue of the Matrimony subsequent,

(a) Hist. Stewart, p. 19, 20. (b) Hist. Scotl. p. 245. Col. 2.

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"quent,---they being now at Liberty, might re-
 "new their old Love, and in Wedlock possess
 "that which before they enjoyed in Adultery:
 "Not long after, by Authority of Parliament,
 "he made his eldest Son *John* Earl of *Carrick*."
 Shortly after he called another Parliament at
Perth, when it was ordained, "That 'after the
 "Death of King *Robert*, *John* his eldest Son
 "should succeed him, and by an Act established
 "the Succession to the Crown: It was to *John*
 "his eldest Son, and to his male Heirs; and for
 "Default of such Heirs, to *Robert* his second
 "Son, and to his male Heirs; and for Default
 "of such Heirs, to *Alexander* his third Son,
 "and to his male Heirs; and in Default of them,
 "to his Son *Walter*, begotten on *Eufemia* his
 "Wife, and to the Heirs male of her Body;
 "and if such a Succession failed, then it should
 "descend to his youngest Son *David*, the Earl of
 "*Strathern*, and to his Heirs general, either
 "Male or Female." Here I would have Mr.
Ruddiman to observe, that, by this long Detail of
 Parliament, *Eupham*, who was married to *James*
 Earl of *Douglas*, King *Robert's* Daughter by *Eli-*
sabeth Muir is shut out, notwithstanding of her
 Proximity of Blood to her Brothers: Will Mr.
Ruddiman call this Act of Parliament a Forgery
 also? If he will, was *Russel* the Forger? Or who
 was he?

William Saunderson, who wrote a large History
 of King *Charles I.* (a great Friend and Lover of
 Monarchy) writes in the very same Strain; and
 adds (a), "That King *Robert* being aged and
 " in-

“ infirm, entrusted the Power of the Militia to
 “ his eldest Son *John* Earl of *Carrick*, a valiant
 “ Person ; and that the Queen dying, and leav-
 “ ing two young Sons, the King married his
 “ former Concubine *Bess Muir*, and preferred
 “ her three Sons, begotten out of Marriage, be-
 “ fore his legitimate Sons ; this being done by
 “ the Pope’s Dispensation, or by Act of Parlia-
 “ ment, or by a prior clandestine Marriage, as
 “ was pretended, yet the History bears it not,
 “ but *John* succeeded by the Name of *Robert III*,
 “ because two *Johns*, the one of *England*, and the
 “ other of *France*, had been unfortunate.

I want to know from Mr. *Ruddiman*, upon
 what Grounds he ascribes the Contrivance of the
 Story about *Robert’s* Wives and Children to *Russel*,
 who, by *Thomas Innes* (a), is called *Patrick*, and
 says, he was a *Carthusian* Monk : “ He speaks of
 “ some other Continuator of *Fordun’s* History, viz.
 “ *Walter Bowmaker* Abbot of *Inchcolm*, who made
 “ Additions to it in the Reign of King *James II*.
 “ *MacCulloch* a Canon of *Scoon*, and, in general,
 “ all our other Monastery Books, (except that of
 “ *Melrose*) as *liber Pasletensis, Cuprensis et Sconensis*,
 “ these were nothing else, but Copies of *Fordun*, till
 “ the Death of King *David I*. with some few In-
 “ terpellations of their own, and a Continuation of
 “ his History down to the Reign of King *James I*.
 “ And afterwards (b) he acquaints us, that *Bow-*
 “ *maker* published *Fordun’s* History about the Year
 “ 1448 ; he, besides all these (c), tells us, there is a
 “ Continuation of *Fordun’s* History in the *Bodleian*
 “ Library,

(a) Crit. Essay, p. 632. (b) Ibid. p. 716. (c) Ibid.
 p. 555.

“ Library, attributed to Bishop *Elphinston*.” Now was *Russel* the only Forger? Did any of the above Continuators discover the Cheat? Did the three Monasteries make their Additions, and never discover that *Russel* had put a Brand of Infamy upon the Royal Family, or in the least quarrel him? Have all these Continuators, one an Abbot, another a Bishop, and Monasteries, been so little and inconsiderable, and the Transcribers also, as never to find out the Fiction and Contrivance, or entertain a Suspicion about it? Strange! wonderful! Nay, have all our Kings from *Robert III.* his Days, and all their Statesmen, suffered this vile Aspersions to pass, without taking Notice of it, or finding Fault with our Historians for it? Still surprising and amazing! This has exercised of late the Wit and Invention of the Advocates, for the Legitimacy of *Robert III.* to account for it; they have put their Invention to a Stretch, to shew how our Historians came to fall into so gross a Mistake. Mr. *Sage* (a) mentions no fewer than four Conjectures made by them; one by the Earl of *Cromarty*, one by Sir *James Dalrymple*, two by the laborious Antiquarian Mr. *Rymer*, but he is not pleased with any one of them; and therefore proposed his own Conjecture; but yet, he says, he lays no Stress upon it.

I observe, that there is a Contest among the Advocates for the Legitimacy, for the Honour of being the first Discoverer of the Cheat. Sir *George MacKenzie* on the Succession (b), gives it to Sir *Lewis Stewart*; he says, “ Sir *Lewis* was “ one of the most famous Lawyers we ever had.”

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(a) Introd. p. 42, 43. (b) Ibid. p. 47, 48.

It would seem that Sir *Lewis* wrote on this Subject in Latin; for Sir *George* gives a Latin Passage from his Performance; I shall translate it: Sir *Lewis* says, "He saw two Acts of Parliament, " subscribed by the Bishops, the Nobility, the " Barons and others, deposited in the Castle of " *Edinburgh*, bearing, that *Elisabeth Muir* was " *Robert's* first Wife, and *Eupham Rosse* his second, determining the Succession to appertain " to *Elisabeth's* Children, as the righteous Heirs: " Nay, *he says*, that he saw above 20 Charters " among the Archives, where he left them, " from which it is as clear as the Sun, that *Elisabeth* was the first Wife, and *Eupham* the second." Sir *George* tells us, he got this Paper from Lord *Pitmedden*, who has wrote some learned Observations upon this Point. Sir *Lewis* had done better to have taken a Copy of these two Acts, with the Names of all the Subscribers, the Time when, and the Place where these Acts were made and subscribed: For we have nothing but a Story, of what Sir *Lewis* saw, handed down to us by Tradition. Again, it is pretty singular that there are no less than two Acts, determining that *Elisabeth* was the first, and *Eupham* the second Wife. And it is strange, that neither Sir *Lewis*, nor Lord *Pitmedden*, thought it fit to do so great a Piece of Justice to the Royal Family, as to publish their Observations. This, it seems, was not known to Sir *Thomas Murray*, otherwise he had not published the contrary in his chronological Table, with the royal Licence. The Earl of *Cromarty* next appears as an Advocate for *Robert's* Legitimacy, and published his Vindication

of *Robert* from the Imputation of Bastardy; and because Mr. *Sage* had controverted several Things his Lordship had asserted in this Debate, he published a second Edition of his *Vindication*, where in (a) he claims the Praise of being the first Discoverer of the Cheat, and denies it to any other, and particularly to Sir *Lewis*: His Words are, " I was the first who raised the dead Reputation of *Elizabeth Muir*, and her Children; for Sir *Lewis Stewart*'s Hearsay of two Papers, that are not extant, and not to be found, could not have stood against the stormy Calumnies of so many Writers and Historians, both out of and in *Britain*." The Right Honourable Sir *John Clerk*, one of the Barons of his Majesty's Exchequer, to whom I had communicated my Papers, has favoured me very much with some useful Observations upon the Succession of our Kings: He observes, " That, about the Time that Sir *George MacKenzie* wrote, our Historians on the Part of the Crown seemed to be mighty sanguine against Bastards; but this was with a View to the Party, which was for setting up the Duke of *Monmouth* and his Successors, in Exclusion of the Duke of *York*. He approves of the Principle of some eminent Lawyers, that *possessio coronæ vel summæ potestatis tollit omnia vitia sanguinis*. *William* the Conqueror was a Bastard; and the famous *British* Kings, *Arthur* and *Athestane*. There were several Bastards in the Family of *Florence*. In short, there were few Races of Kings in *Europe*, but could be affected this Way."

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I may call this Contention among the Advocates for the Legitimacy of *Robert III.* the Battle royal. We have heard already how the Earl of *Cromarty* triumphs over Sir *Lewis Stewart*; next Mr. *John Sage*, a famous Champion for the Hierarchy, and the indefeasible hereditary Right of our Kings, engages in a hot Dispute with the Earl, and quarrels him greatly for putting *John Major* at the Front of these Historians, who say, that *Euphemia Ross* was *Robert's* first Wife, and *Elisabeth Muir* his second, though the Earl has, to a Demonstration, shown, that this was what *Major* intended to express in his History: He likewise falls foul on the Earl for asserting, that Bishop *Wardlaw* and Queen *Eufemia* died much about the same Time, *i. e. anno 1387*, though he said that *Fordun* had wrote the same Thing. There are several other Particulars, which, the Earl writes, he will not let pass without his critical Remarks: But the rudest Treatment of all he gives to the Earl, is (a) in these Words; "If we may
 " take Lord *Tarbot's* Word for it, neither *Boece*
 " nor *Buchanan* have given us so much as the
 " true Year of Queen *Eufemia's* Death; ----- but
 " I dare not with Confidence rely upon it; ei-
 " ther himself or his Printer have so weakened
 " the Credit of his Narration," &c. This his Lordship resented in a high Degree; and, in Ridicule or Irony, twitted him "with the Ac-
 " cuteness of his critical Spirit, calling him the
 " *Cyprienick* Doctor, and wished that this In-
 " troduction (*this Mr. Sage wrote to Hawthorn-*
 " *den's History*) were extruded, that so we might
 " see

“ see the worthy Author not in that Puddle, but
 “ in his illustrious Chair of his *Cyprianick* Age,
 “ where I with others must pay him great Re-
 “ spect.” Sir *James Dalrymple* is another Ad-
 vocate for the Legitimacy of *Robert III.* But be-
 cause he endeavoured to prove, that *John Major*,
 was one of these Historians who agreed with *For-*
dun, or his Continuator, and *Boece*, Mr. *Sage*
 treats him most rudely, and fills up several Pages
 in his Introduction with strained Criticisms, to
 expose him, though Sir *James* had advanced such
 good Arguments for his Opinion, as might have
 satisfied any unprejudiced Person : But the Writer
 of Mr. *Sage*’s Life takes up the Debate again,
 and this gave Occasion to a very able Hand to
 write a Vindication of Sir *James*, both against
 Mr. *Sage* and his Biographer. After this Vindi-
 cation came out, there started up a Vindicator
 of Mr. *Sage*, who fills up 156 Pages in Defence
 of him, upon the ecclesiastical Part of Sir *James*’s
 Collections : But as to the Sense *Major* intended to
 express, concerning *Robert*’s Wives, he deserts
 the Cause, wherein Mr. *Sage* had engaged with
 much Keeness, and at great length ; and all that
 he thinks fit to reply is, in few Words, viz. “ That
 “ all that Sir *James* and his Vindicator have said,
 “ to justify their bold Corruption of the Text,
 “ amounts to no more but this, that otherways
 “ *Major* must be inconsistent with himself ; as
 “ if forsooth it were a very rare Thing to see an
 “ Author careless and inadvertent.” Thus Mr.
Sage’s Vindicator goes sneakingly off the Field,
 and leaves Sir *James* and his Vindicator in Posses-
 sion of it, they having irrefragably demonstrated

the Error of the Printer, by transposing the Name *Elisabeth* instead of *Eufemia*. Mr. Rymer, the *English Historiographer*, is another Advocate for the Legitimacy of *Robert III.* but Mr. Sage will not let him escape without playing his Artillery against him; because (in two Treaties for *David's* Liberation from *England*, in both which the Son and Heir of the Steward of *Scotland*, is named to be a Hostage for the Security of the second Payment, and upon his Discharge, *Walter* Son of the said Steward, if alive, if not, some other of his Sons, together with the Son and Heir of *David del Hay*, Constable of *Scotland*, or some other equally sufficient) he says, "That if this *Walter* was the " Son of *Eupham Rosse*, it may seem, that the " first Son of the second Wife, was looked up- " on to be better than the second Son of the first " Wife;" Mr. Sage (a) flies upon him " for his " imperfect Skill in *Scottish* Matters, that he is not " well acquainted with the true Account of *Eli- " sabeth's* Children, that he did not weigh Things " as he ought to have weighed, which if he had " done, he would not have conjectured, that the " *Walter* in the Treaty was *Eupheme's* first Son; " for he was but her second Son." But Mr. Rymer had Ground to make this Conjecture; for some of our Writers have said, that *Walter* was *Eupheme's* eldest Son.

Now, after all, what can we think of these Advocates for the Legitimacy of *Robert III.* when they are at no good Agreement among themselves? Sir *Lewis* mentions Papers nowhere to be found; The Earl of *Cromarty* cannot with Confidence be

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relied upon; Mr. Rymer has but an imperfect Knowledge in *Scottish* Matters; And as to Sir *James Dalrymple*, Mr. Sage says (a), "That he uses such a Liberty with Authorities, that he can turn them to his own Schemes, to his own Hypotheses, nay to his own Humours." If these are the Sentiments that the Advocates have of each other, I leave it to the judicious Reader to consider if the Writers in this Cause are much to be depended upon.

It is Time now that I make some Observations on the harmonious Account given by our Historians of the Bastardy of *Robert III.* which give great Probability to it. The first is, that *Walter* the eldest Son of *Euphemia*, did procure the Slaughter of King *James I.* pretending a Right, as procreate by King *Robert* on *Euphemia Ross*, *Robert's* first Wife; he engaged *Robert Stewart* his own Nephew, and *Robert Graham* his Cousin, to assassinate him; and that they were the Murderers is evident from the concurring Testimonies of our Historians, who relate the most exquisite and dreadful Tortures inflicted on them, till they expired. See *Drummond of Hawthornden's* (b) Account. And *John Major* (c) acquaints us, that
Wal-

(a) *Introd.* p. 32.

(b) *Hist.* p. 17.

(c) *Gest. lib. 6. cap. 14.* Patruus ejus *Atholia* Comes dierum malorum inveteratus, ad regnum semper aspirabat—Neptem suum *Robertum Stuartum* regi familiarissimum, et *Robertum Gramum* virum astutum et temprarium, quem Rex ante in exilium extruserat, ad hoc facinus perpetrandum sic induxit, ita quod de seipso perspiceretur nihil, sed omnium consensu saltem regni custos, rege perempto, eligeretur et *Jacobum II.* puellum per septennium ad nutum rexit, et ipsum fortasse de medio ut regnaret, sustulisset.

Walter's Intention was to have himself raised to the Throne. "The Earl of *Athol*, says he, induced his Nephew *Robert Stewart*, who was most familiar with the King, and *Robert Graham*, a most cunning and valiant Man, (whom the King had formerly banished) so as that no Suspicion could be entertained of himself, that if the King was slain, he, by the Consent of all, should be chosen Regent, and govern *James* a Boy, for the Space of seven Years, as he pleased, and perhaps put him out of the Way, that he might be made King."

Holinshed (a) expressly asserts, that his Pretension to the Crown was, that he was procreate by King *Robert* on *Eufemia* his first Wife. I must own, that our Writers differ in their Sentiments concerning *Walter* and *David* the Sons of *Eufemia*. *Buchanan* and *Holinshed* say, that *Walter* was the eldest: But *Boethius*, and the two chronological Tables, make *David* to be her first Son. Mr. *Ruddiman* (b) sides with them; he says, "That of *David's* Daughter was born *Melissus Graham*, a Youth when King *James* was murdered; so that if any Stain did adhere to *Elisabeth's* Children

(a) Hist. p. 358. Col. 2.

(b) Annot. p. 438. Col. 2. Huc accedit, quod non *Walterus Atholia*, (quod *Buchananus* aliique innuere videntur) sed *David Iernia Comes*, filius *Roberti II.* erat ex *Euphemia* uxore natu maximus, & cujus filia natus est *Melissus Gramus*, jam tum adolescens, cuique ob eam rationem (si quod nostri volunt, aliqua *Roberti III.* ejusque adeo posterorum natalibus labes adherebat) regnum *Scotorum* jure debebatur. Quae cum ita sint, nullum aliud *Atholio* relinquitur, tam dirum facinoris patrandi incitamentum, quam ipsius malus animus, insana regnandi, omnesque qui obstabant tollendi cupiditate percitus.

"dren by an unlawful Coition, the Right of
 "Succession would belong to this *Melissus*; and
 "and therefore that which did excite *Walter* to
 "murder King *James I.* was not, that he him-
 "self had the just Right to the Crown, but only
 "his own wicked Disposition, and mad Lust of
 "Power; wherefore he thought he would put
 "all out of the Way, that should make Oppo-
 "sition to him."

But Mr. *Ruddiman* would know, that *Walter*
 was not only punished by Death, but he incurred
 the Forfeiture of his Honours and Estate, upon
 which *David* had any Right that *Walter* could
 lay Claim to. This is plain from the Account
 given us by Mr. *Saunderson* in his large History
 of King *Charles I.* (a) in his Narration of the De-
 scent of the Earl of *Strathern*; he writes, "That
 " *David* Earl of *Strathern* left only one Daugh-
 "ter married to the Lord *Graham's* second Son,
 "who left only one Son, *Melissus Graham* Earl of
 " *Strathern*, and King *James I.* returning to *Scot-*
 " *land* after 18 Years Captivity in *England*, and
 "finding the Crown Rents much decayed, caused
 "a general Search of the Dilapidation, and the
 "Return made (among others) was, That the
 "Earldom of *Strathern* ought to devolve to the
 "Crown by the Entail, and so it was re-assumed;
 "but the young Earl, so near a Kinsman, he
 "created Earl of *Monteith*, with some small
 "Rents, at which the young Man's Uncle (as-
 "piring to the Crown) and Sir *Robert Graham*
 "quarrel, and murdered the King, but were
 "exemplarily punished, and *Atbole* forfeited;
 "since

“ since which Time the Earl of *Monteith* lives
 “ privately, until this Man was set up by the
 “ Duke of *Buckingham*’s obtaining of the King
 “ (neither of them acquainted with the Genealogy)
 “ to be lineal Heir to that *David* Earl of *Strath-*
 “ *ern* his Predecessor, to have the Title of Earl
 “ of *Strathern*, who, some Years after, vainly
 “ let fall these Words, *That the King held the*
 “ *Crown of him*; and being tried and found
 “ guilty, the Title was re-called, and he had
 “ given to him the Title of the Earl of *Airth*,
 “ but was discourted, and put out of Place, or
 “ further meddling in State-affairs. Thus this
 “ Nobleman, as descending from King *Robert* by
 “ *Eufemia Ross*, and looking upon her to be
 “ *Robert*’s first Wife, the Children of *Elisabeth*
 “ *Muir* were reckoned Bastards by him.” The
 Observation that Mr. *Saunderson* makes upon re-
 storing *Monteith* in Blood is, that it was very dis-
 advantages to the King; the Consequence is, that
 King *Charles* and his Sons were Usurpers, and
 dangerous to the Earl himself.

The second Observation I make for supporting
 the Account our Historians give of *Robert*’s
 Wives and Children is, That *Robert*, upon his
 coming to the Throne, called a Meeting of Par-
 liament to have his Son *John* (alias *Robert*) by
Elisabeth Muir declared his Successor, because his
 Children could not inherit by that subsequent
 Marriage of her, after the Death of *Eufemia Ross*
 his first Wife, it being apparently insufficient.
 There was no Necessity of obtaining an Act of
 Parliament to make her Children capable to in-
 herit, and thereby to set by the Children of *Eufemia*,

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femia, for no Fault or Forfeiture at all, if *Elisabeth* had been his first Wife. The Children of a first Marriage, by common Law, are to be preferred to the Succession before the Children of the second. The marrying *Elisabeth* did but legitimate her Children to succeed after the Children of the first Marriage, according to *Saunderson*.

I observe, that the Reason why *Robert* was earnest to have *Elisabeth*'s Children legitimated, was his great Affection to her. This Reason is condescended upon by our Historians, and in the two chronological Tables; that which did ingratiate *Robert* to the King, was his Valour. *Saunderson* says, "That the King being aged and infirm, entrusted the Power of the Militia to *John* a valiant Person, and so was fit, in a Time of Danger and Confusion by the War with *England*, to defend the Country against all Attacks and Invasions from that Airth; the Kingdom had suffered extremely, ever since *Edward I.* had laid Claim to the Sovereignty, because of *Baliol*'s paying Homage to him." Again, *Saunderson* informs us, "That *Robert*'s Children by *Eufemia* were young, and so were altogether unfit for swaying the Scepter, and leading the Army out to the Field in Defence of the Kingdom, against such powerful and formidable Enemies as the *English*." It was for this Reason, that the Act of Parliament, anno 1312, the next Year after the famous Battle of *Bannockburn*, declared, "That failing Heirs-male of King *Robert Bruce* his Body, the Crown should descend upon *Edward* his Brother; so that *Marjory* was cut off from succeeding immediately to her Father,

" Father,

“ Father, tho’ she had the Proximity, she being
 “ unfit for War.”

4thly, *Saunderson* observes, That the preferring of *Elisabeth’s* Children to these of *Eufemia*, was done, either by Reason of the Pope’s Dispensation, or by the Act of Parliament, or by a prior clandestine Marriage, as was pretended, yet the History bears it not. Mr. *Sage*, to save the Children of *Elisabeth* from the Imputation of Bastards, thinks, there was both a clandestine Marriage and a papal Dispensation in this Case. He conjectures (a), “ That *Robert* probably married *Elisabeth Muir* privately, against the Decrees of the Canon Law, which prohibits Marriages within such Degrees of Affinity or Consanguinity; that before he obtained a Dispensation to legitimate the Marriage, *Elisabeth* had born to him diverse Children, perhaps most of, if not all his Sons; that the Clergy, who, in these Times, were the chief Keepers of Records, and who, for their Zeal for the Canon Law, and the Pope’s Authority, were ready to damn all Marriages that were uncanonical, had marked these Children, who were born before the Dispensation was obtained, for Bastards. Mr. *Sage* supposes that the Clergy kept the Records of this Marriage, and of *Robert’s* Sons, as they were born; but does not tell us where these are to be found, or who ever did see them; but takes it for granted, that some little Historians saw them marked in the Records for Bastards, as they were born, and that he therefore took the Sons to be Bastards indeed. But

does

(a) Introd. p. 43.

does this make one to be a little Historian, that he took the Sons to be Bastards, when he saw them, one after another, in the Records marked as Bastards? He says, *That the Clergy were ready to damn all uncanonical Marriages*: But how knows he that this was actually damned by them? If it was, what Clergy damned it? Was it damned at *Rome*, or by a Sentence of a Convocation of them at home? Or was it damned by the Clergy, who kept the Records, by their marking that this and the other Son was a Bastard? It seems, according to the Conjecture, that all was kept secret, till all the Sons were born; and that when it could no longer be concealed, *Robert* found it necessary to apply to *Rome* for a Dispensation. Again, according to the Conjecture, the Cause of so private a Marriage was, because she was within the forbidden Degrees of Consanguinity or Affinity, and that this also made it necessary for him to sue for a Dispensation; but how does *Mr. Sage* account for this Impediment of the Marriage? He says she was well born, and *Robert's* near Kinswoman; but how near we are not told: It is no good Proof of her being his near Kinswoman, that she was well born; by this Argument it will follow, that all the Ladies of the Country were his near Kinswomen; besides, she was not so high born, but she might stoop to be a kept Miss; and this seems to be the Case, till he was to have the Children legitimated. Was not *Mariota de Cardney*, by whom he had three Bastards, another kept Miss? Was she not well born, being the Daughter of *John Cardney* of *That-ilk*.

Mr. *Ruddiman* (a) contends, “ That it is a mere Fiction, that *Robert* married *Elisabeth Muir*, after the Death of *Eufemia Rosse*; it most clearly appears, says he, from an authentick Charter in the *Scottish* College at *Paris*, strictly inspected and examined by Persons most learned in Antiquities, that *Elisabeth* was taken out of this World before the Year 1365, that is, six Years, at least, before *Robert* was made King, and 22 before *Eufemia* the Queen died.”

I have consulted *Mabillon's* Treatise *de re diplomatica*, who gives us the Charter at full Length, with a Preface by the first Publisher, whom I take to be *Lewis Innes* Principal of the *Scottish* College at *Paris*; after the Charter, he subjoins an Attestation of some learned Antiquaries, declaring the Charter to be genuine; and a Declaration of some of the chief Nobles of *Scotland*, shewing what they knew about it: And last of all, some historical Observations concerning it, and many Arguments for proving its Authority, which I judge were advanced by the said Antiquaries. *Mabillon* published two other Charters, one of *Robert II.* when he came to be King, the other of his Son *John*, designed Earl of *Carrick* and Steward of *Scotland*; all which I shall take under my Review, and shew that they afford no certain Evidence, that the Charter is genuine.

Now

(a) *Annot. p. 433. Col. I. Ex charta authentica Lutetia in Collega Scotico asservata, atque a viris rei antiquariae peritissimis examinata et excussa evidentissime apparet, Elisabetham Moram ante annum 1365, i. e. sex minimum annis priusquam Robertus regnum inierit, et 22. quam decesserit Eufemia Regina, rebus humanis fuisse jublatam.*

Now that the Strength of the Argument may appear, I shall set down the Charter, as it is in *Mabillon's Treatise de Re Diplomatica*, the most of which I will have Occasion to translate in my Reasonings upon it, and my Answers to what is advanced for supporting the Credit of it.

Charta Roberti Seneschalli Scotiæ.

OMnibus hanc chartum visuris vel audituris, Robertus Seneschallus Scotiæ, comes de Strathern; salutem in Domino sempiternam. Cum dudum venerabili patri Dom. Willelmo Dei gratia, episcopo Glasguensi fuerit per literas apostolicas specialiter delegatum, ut supra matrimonio contrahendo, inter nos et quondam Elisabeth Muir, dum ageret in humanis, non obstante impedimento consanguinitatis et affinitatis contractui matrimoniali prædicto impedimentum præstante, auctoritate apostolica dispensaret, dummodo duas capellanas, vel unam pro arbitrio ipsius episcopi perpetuo fundaremus, ac dictus venerabilis pater, consideratus in hac parte considerandis, nobiscum super impedimento prædicto, auctoritate, qua supra dispensans nobis injunxit, ut una capellania in Ecclesia Glasguensi, ad unum certum altare, ad pensionem decem marcarum sterling. annuatim percipiend. de certis redditibus nostris fundaretur perpetuo, nosque eandem capellaniam sic fundare fideliter promiserimus, infra certum tempus jam transactum, nobis tum per dictum Episcopum limitatum; noverit universitas vestra, nos ex causa præmissa dedisse, concessisse, et hac præsentī carta nostra confirmasse, pro nobis et hæredibus nostris perpetuo Deo, Beatæ Mariæ Virgini, Beato Kentegerno, et uno capellano celebranti, et celebraturo, perpetuo in Ecclesia Glas-

Glasguenſi prædicta, decem marcas ſterling. ad ſuſtentionem ejusdem capellani annuatim percipiend. de annuo redditu, quadraginta librarum ſterling. exeunte de terra del Cars, Abbatis infra vicecomitatum de Stryvelyne, et nobis et hæredibus noſtris, debito per religioſos viros, Abbatem et conventum monaſterii ſanctæ Crucis de Edinburgh, tenend. habend. et percipiend. annuatim in perpetuum eidem capellano, qui pro tempore fuerit, per manus dictorum religioſorum ad terminos Pentecoſtes, et ſancti Martini in hyeme per portiones æquales in liberam, puram, et perpetuam elymoſinam, adeo libere, quiete, plenarie et honorifice, ſicut aliqua elymoſina per totum regnum Scotiæ liberius conceditur, percipitur, ſive datur; et nihilominus totum jus nobis competens per cartam infeodationis, recolendæ memoriæ, Domini Regis Roberti avi noſtri, ſive obligatorium dictorum Abbatis et conventus, ſeu quaſcunque alias evidencias ad compellendum dictos Abbatem et conventum ad ſolutionem dicti annui redditus decem marcarum in Episcopum Glasguenſem, qui pro tempore fuerit, et Capitulum Glasguenſe ſede vacante, per hanc cartam noſtram perpetuo transferimus, ipſosque et eorum alterum, quantum ad hoc, noſtros et hæredum noſtrorum assignatos, et assignatum facimus, conſtituimus, et etiam ordinamus. Et ſi forte contingat, quod abſit, quod dictæ decem marcæ annuæ per dictum capellanum qui pro tempore fuerit, percipi non potuerint, ut eſt dictum, vel ex eo quod dicti Abbas et conventus ſolvere noluerint, aut compelli non potuerint ad ſolutionem earundem, vel ex eo quod nos aut aliquis hæredum noſtrorum, contra præſentem infeodationem et conſeſſionem noſtram, ſolutionem dictarum decem marcarum impediverimus aut impediverit, aut per nos ſeu alium vel alios, clam vel palam, directe vel indirecte procura-

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vimus seu procuraverit impediri; obligamus nos et hæredes nostros per omnia bona nostra mobilia et immobilia ad solvend. dictas decem marcas de aliis redditibus nostris, ubi Episcopus Glasguensis qui pro tempore fuerit, vel capitulum ejusdem sede vacante, duxerit eligend. toto tempore quo cessatum fuerit a solutione dictarum decem marcarum percipiend. de annuo redditu supradicto, subjicientes nos et hæredes nostros jurisdictioni et coercionem Episcopi Glasguensis, et ipsius officialis, qui pro tempore fuerint, ut ipsi per omnimodam mensuram ecclesiasticam nos et hæredes nostros compelleri valeant ad perficienda omnia, et singula supradicta in casu, quo defecerimus, sive defecerit, quod absit, in aliquo præmissarum; et ultra omnia prænotata, nos et hæredes nostri prædict. donationem et concessionem nostram de decem dictis marcis annuis percipiendis, ut supra de annuo redditu supradicto prædicto Episcopo, ecclesie Glasguensis, et Capellano, qui pro tempore fuerint, contra omnes homines et fæminas warrantizabimus, acquietabimus, et in perpetuum defendemus. In cujus rei testimonium sigillum nostrum, una cum sigillo Joannis Seneschalli Domino de Kyle primogeniti et hæredis nostri præsentibus est appensum. His testibus venerabili patre Domino Roberto Abbate monasterii de Kilwynnyne, et Dominis Joanne Senescallo fratri nostro, Hugone de Eglyntonne et Thoma de Fawside militibus, Joanne Mercer burgenfi de Perth, Joanne de Rose et Joanne de Tait armigeris nostris et aliis. Apud Perth duodecimo die mensis Januarii anno Dom. 1364.

I begin my Review by examining the Preface. It is a bitter Invective against Mr. George Buchanan, as a most malicious Enemy of the Royal Family

Family and monarchical Government, and as guilty of a vile Asperſion upon the Kings of *Scotland*, deſcending from *Robert II.* by loading him with the Imputation of Baſtardy, though *Fordun* or his Continuator, *John Major* and *Hector Boece*, had aſſerted the ſame Thing, long before *Buchanan* had written his Hiſtory, and though *Leſly* Biſhop of *Roſs*, *Buchanan's* Cotemporary, and *Drummond* of *Hautbornden*, Men great Friends of Monarchy, give the ſame Account ; againſt none of theſe does our Prefator inveigh, but *Buchanan* only : He ſays, “ That *Buchanan's* virulent Hiſtory diſcovers how unjuſt he was to Queen *Mary*, and that his Dialogue *de jure regni* ſhews, “ that he was a moſt malicious Enemy of Kings ; “ and adds, that both theſe Books were condemned by the Eſtates of Parliament *anno 1584*, “ in the Regn of King *James VI.*” It is true, that their Act declares, “ That there are certain “ ſundry offensive Matters worthy to be delete, “ contained in theſe Books, and ordains the Havers of them to deliver them up to the Lord Secretary, or his Deputes, within forty Days “ after the Publication of the ſaid Act, that the “ ſaid Books may be peruſed and purged of the “ offensive Matters ſpecified in them, not meet “ to remain as Records of Truth to Poſterity, “ under Pain of 200 Pounds off every Perſon “ failing herein ; and the Penalty to be execute with all Rigour.” But this Parliament was very infrequent, nay a pickt one, and conducted by Colonel *Stewart* Captain of the King's Guard, and *Adamſon* Archbiſhop of *St. Andrews* ; and the King was managed by the Counſels of bad

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bad Courtiers. Many of the Ministers of this Church were obliged to fly the Kingdom, likewise many of the Professors of the reformed Religion; and the Ministers of *Edinburgh* were forced to seek lurking Places for their Safety. See *Spotiswood's History* (a). *Buchanan* wrote against none of our Kings, but such as were bad Men, and tyrannical Rulers; and if the Reader will consult the two chronological Tables of *Skeen* and *Murray*, licensed by King *Charles II.* he will find worse Things related concerning our Kings, than any told by *Buchanan*. When they were condemning *Buchanan's* Books, was not this a proper Juncture to expose his Narration concerning *Robert's* Wives and Children by *Elisabeth Muir*? Had they shown this one Particular to be false, it was a more plausible Ground for condemning them, than an unsupported general Assertion, that they contain diverse offensive Matters: But the Truth is, they knew nothing of the now pretended Fiction. The History was condemned about two Years after his Death; he died *September 28. 1582*: The Condemnation was never attempted while he was alive; he was more than able to justify it against the whole Faction. And as for the *Dialogue*, it had been licensed by the King himself, about five Years before, as is acknowledged by Mr. *Ruddiman* in the Preface to *Buchanan's* Works (b). As to Queen *Mary*, *Spotiswood*, Superintendent of *Lothian*, the Archbishop's Father,

(a) *Hist.* p. 333.

(b) P. 18. Col. 2. Editus est ineunte anno 1579, nec sine privilegio regali apud Joannem Rossaum pro Henrico Characteris quaternaria forma.

Father, in his Admonition to the Professors within *Lothian*, his Bounds, exceeds all that was written by *Buchanan* against her. We have it in Mr. *Calderwood's* large MSS. History ; and because there are Copies of it but in few Hands, I refer my Readers to Bishop *Keith's* (if I may call him a Bishop) History (a) ; “ We see, says the Superintendent) a wicked Woman, whose Iniquity known, and lawfully convict, deserved more than ten Deaths, escaped from Prison ; (this was the Castle of *Lochleven*) Negligence of the Keepers of it is not to be excused, so may it well occupy the second Place before Men. Practices of deceitful Men, together with her own Villany, may occupy the third Rank in that wicked Fact : But none of all these should have had Place to work, if the Mouth of the LORD had been obey'd ; for if she had suffered as GOD's Law commandeth, Murderers and Adulterers to die the Death, the Wickedness taken forth from *Israel*, the Plague would have ceased, which cannot but remain so long as that innocent Blood, notoriously shed, is not punished according as GOD hath commanded ; and so I fear not to affirm, that the Reservation of that wicked Woman, against God and the Voices of his Servants, is the first and principal Cause external, which Men can see of the Plague and Murder lately begun ; and yet when I confess it to be the first external Cause, I mean not, that it is the only, and sole Cause of this present and appearing Calamity : For, albiet the Devil himself had been loosed (as

(a) *Keith's History*, p. 591.

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“ no doubt he was) in the Person of that wicked Woman, yet could not he nor she greatly have troubled this Commonwealth, unless she had been assisted with the Presence, Counsel and Force of such, as have professed the Lord Jesus, and by all Appearance had renounced that *Roman* Antichrist, and his damnable Superstition,” &c.

The Prefacer next accuses *Buchanan* for favouring the Earl of *Murray*, Queen *Mary*’s Bastard-brother, “ Who, says he, out of his Ambition, aspired to the Crown, and that he might enjoy it, *Buchanan* gave *Robert III.* as an Instance, that a Bastard came to the Throne ; this Example was imitated by the Duke of *Monmouth*, who, upon the Death of his Father, invaded the Kingdom.” Here the *Parisian* Prefator betrays his gross or affected Ignorance of our *Scottish* Affairs ; for Mr. *Ruddiman* (a) owns, that *Buchanan* scarce two Years before the Death of the Earl of *Murray*, began to write his History : He died anno 1570, without leaving any Male-issue behind him ; and it is not probable, that *Buchanan* had made considerable Progress in it, in so short a Time ; for the History was not published for twelve Years after this. Now let the World judge with what Truth it can be said, that *Buchanan* wrote his History for opening a Way for the Earl of *Murray* his coming to the Throne : For the Earl had been lying so long a Time in his Grave before the History was published.

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(a) Pref. p. 9. Col. 1. *Ab anno uti ego arbitror, maximam deinceps vita sua partem posuisse videtur ---- primum in lucem prodit anno 1582.*

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shed. This Earl no doubt had Enemies, who gave it out that he aimed at the Crown, and our Prefator seems to have relied upon their groundless and malicious Suggestions: But Queen *Elizabeth* observing this injurious Conduct of his Enemies, emitted a Proclamation declaring the Falshood of the Reports that they made to pass of him. It was given at *Hampton Court*, *January* 22. 1568. Mr. *Anderson*, in his Appendix to his Treatise of the *Independency*, &c. *Numb.* 10. gives it as he took it from a Copy printed by *Richard Juge* and *John Carwood*, Printers to this Queen. I shall insert so much of it as sufficiently clears the Earl. “The Queen’s Majesty understanding, that there are published sundry Matters in *Scotland* lately, contrary to all Truth, and Meaning of the said Queen, as it appeareth maliciously devised to blemish the Honour and Sincerity of her Majesty, and to bring the Earl of *Murray* in Hatred with his own Friends, being native good *Scottish* Men, hath thought it good to let it be openly notified to all Persons, both *English* and *Scottish*, that are disposed to hear the Truth, that howsoever it be said, or written by any Person, of what State soever the same be, that any secret Practice hath been made betwixt her Majesty and the Earl of *Murray*, whereby it should be convented and accorded, that the Queen of *Scots* Son should be delivered into her Hands, to be nourished in *England*, as she should think good; and that the Castles of *Edinburgh* and *Stirling* should be in *Englishmens* Keeping; and that the Castle of *Dumbrition* should be besieged and taken, and

“ and rendered to her Majesty’s Behoof; and
 “ that the Earl of *Murray* should be declared le-
 “ gitime to succeed to the Crown of *Scotland*;
 “ her Majesty, as she is, and by GOD’s Grace
 “ intendeth, during her Life, to be a Prince of
 “ Honour, and a Maintainer of Truth, doth, on
 “ the Word of a Queen, let all Persons to know,
 “ that all and every the foresaid Things above
 “ specified, are altogether false and untrue, and
 “ are devised by Persons of mere Malice and
 “ Rancour, being disposed to nourish Factions
 “ and Disorders; and hating the Good, Quiet-
 “ ness and Concord betwixt the two Realms of
 “ *England* and *Scotland*: For this her Majesty
 “ assureth all Persons, that as of these Untruths
 “ and Falsehoods, there was never any Conven-
 “ tion betwixt her Majesty and the said Earl,
 “ nor betwixt him or any of her Ministers, to
 “ her Majesty’s Knowledge; so was there not
 “ any Convention or Part at all, either by Word
 “ or Writing, made betwixt her and the said
 “ Earl, for any thing since his last coming into
 “ this Realm,” &c.

That which interested Mr. *Innes* so much in
 this Matter, if he was the Preface-maker, was his
 great Concern and Grief, that the Descent of the
 most august Prince, *James VII.* the best of Kings,
 (*Regum optimus*) from *Robert III.* should be un-
 der the Infamy and Imputation of Bastardy: But
 did not the present Pretender to the Crown ly
 under the same Imputation? And what has been
 done to clear him from it? For if the half of
 what has been advanced against his Legitimacy,
 were brought against the Succession of a Subject
 to

to an opulent Estate in *Scotland*, no Court of Justice would sustain his Claim. One that can attest concerning King *James VII.* that he was the best of Kings, can after this give his Attestation to the greatest Untruth without Hesitation: That an University Man should call him the best of Kings, who invaded the Rights and Properties of the Universities of *Oxford* and *Cambridge*, by turning out Protestant Masters contrary to Law, and bringing in Popish Teachers: That a Clergyman should call him the best of Kings, who broke in upon the Charters of Hospitals, and assumed a Power of turning out Judges, because they would not be brought to his Mind; and causing Ministers to be suspended, because they preached in Defence of the established Religion, against the Errors of Popery; In fine, that he should call him the best of Kings, whose whole Reign was a continued Series of Tyranny, is amazing!

The Prefacer gives us the History of this Charter, as follows; "*James Beaton* Archbishop of "*Glasgow*, upon the Reformation of Religion in "*Scotland*, left his native Country, went for Shelter into *France*, and carried with him the Records of his Church (*acta et instrumenta ecclesie sue*) which are yet extant in the Archives of "*the Scottish* College in *Paris*: Among these "*Charters* there are three, bearing as fair and "*clear* Proofs of the Deception of the *Scottish* Historians, *Boece*, *Leshy*, *Buchanan*, &c. in the "*Point* of King *Robert's* Marriages, as any we "*have* yet had." Mr. *Sage*, to support this Narration, brings in Sir *James Dalrymple* saying in his

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Preface (a), that he has seen this Charter *verbatim*, as it is published by our Countrymen in *France*, in the Extracts out of two Register Books of the Bishoprick of *Glasgow*, taken from these Records in the Year 1556, some Years before they were carried to *Paris* at the Reformation. I own, that these are Sir *James's* Words; but then Mr. *Innes* his Account does not agree with Sir *James's*; for Mr. *Innes* says, "That the Charter was produced, and seen with the Seals appended to it, by learned Antiquaries, and the Chief of the Nobility assembled in the royal Abbacy of *St. Germans a Pratis*:" But a Charter with the Seals is not, as I conceive, to be found in a publick Register: But Sir *James* says, "He saw the Extracts taken out of the Register-books, and that the Extracts were taken out of the Books before they were carried to *Paris*:" He does not say, that the original Charters were carried to *Paris*, but the Register-books; and the Prefator says, "That *Beaton* brought the *acta et instrumenta ecclesie sue* over with him; and Mr. *Innes* says, he produced the Charters themselves, but he does not say he produced the Register-books. Mr. *Sage* (b), when he is giving the History of the Charter, as I conceive from the Preface, speaks of diverse original Charters carried into *France*: But he imposes on his Readers; for the Words in the Preface are *acta et instrumenta ecclesie sue*, which do not signify original Charters, but the Registers or Records of the Archbishop's Church. My Readers must now perceive that the Prefacer, Sir *James* and Mr. *Sage*, are not consistent, or at least they have

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(a) *Pref. p. 36.* (b) *Introd. p. 39.*

so entangled this Matter, that I despair of seeing it adjusted.

The Prefator speaks of two other Charters preserved in the Archives of the said *Scottish* College, the one of *Robert II.* after he was King; the other is of *John* his Son, afterwards called *Robert*, both are published by *Mabillon*: The first has four Seals appended to it; there are two Seals of *Robert*, with this Inscription, *Robertus Dei gratia rex Scotorum*. The third has this Inscription; *Sanctus Kentegernus, Kentegerne tuos benedic. pater alme ministros*; this is the Seal of the Bishop of *Glasgow*. The fourth has this Inscription, *Ecclesia Glasguensis S. Capituli*; the Charter mentions the Seal of the King's Son, and the Seal of one *Gilbert Kennedy* Knight, but these are not appended: It is dated at *Dunnonoir* the penult Day of *November*, anno 1371. It would seem that this Charter was afterward manufactured; for, as to this Date, there are no Witnessees, but the Witnessees are mentioned with respect to another Date and Place, viz. *Dundonevald*, the 4th Day of *December*, the first Year of our Reign; but then it is not subscribed by these Witnessees. Again, King *Robert* speaking of himself, changes the Number, *Sciatis nos*; afterward, *Sigillum meum*; and then again, *Regni nostri*: And, in speaking of the Seals, that of *Gilbert Kennedy* is mentioned before that of his Son and Heir; and afterward he is called his first-begotten, and Earl of *Carriack*, which might be, and yet be a Bastard. In fine, there are so many Blunders in this Charter, that it can merit no Manner of Credit.

The other Charter is granted by *John* Earl of *Carrick* and Steward of *Scotland*, the First-begotten of *Robert*, by the Grace of GOD, King of *Scots*: It mentions several Witnesses, but is subscribed by none of them; it is dated at *Dundonald*, in festo beati *Joannis Evangelistæ*, anno Dom. 1371: His Seal is appended to it, with this Inscription, *Sigillum Joannis Senescalli Domini de Kyle*, which is pretty singular, since, in the Body of the Charter, he is designed by a higher Rank, viz. *Comes de Carrick*; in the Seal, he is no more than Lord of *Kyle*; in the Charter he is Earl of *Carrick*: But that which is very strange, that he, in speaking of himself, calls himself, *Illustris Comes de Carrick*, i. e. the illustrious Earl of *Carrick*: This is so singular an Epithet assumed by the Granter of the Charter, that I question very much if its Parallel can be shown. This alone overthrows the Credit of the Charter; and it is the more remarkable, that the Parliament this very same Year, when they are recognoscing him, do not give him this Epithet of *Illustris*. So much I thought necessary to be advanced as a Reply to the *Parisian* Preface.

Here it must be noticed, that Sir *James Dalrymple* does not say, that he saw these two Charters among the Extracts; and Mr. *Ruddiman* does not adduce them to support his Cause: I apprehend, that he has observed the above mentioned Nullities; but he, for disproving the Account given by our Historians of *Robert's* Wives and Children, lays his great Stress upon that Charter, which I have placed, p. 67,---70; for he says (a), "That it

(a) Annot. p. 433. Col. x. Unde, totius hujus fabula machinationem corrumpere funditus ac everti necesse est.

“ it utterly overthrows the Contrivance of the whole Story.” Mr. *Sage* (*b*) says, “ It unravels all to us---That he can foresee nothing that can be objected to invalidate the Cogency of so clear, so bright, so incontrollable an Evidence, unless its Genuineness be called in Question; that, that cannot be done, but by an Audacity that is regardless of Clearness, and Brightness, and Incontrollableness.” A great deal of such Boasting I have often heard in Conversation from the mighty Sticklers for the hereditary Right of our Kings; but finding that this Charter contradicts the harmonious Account of our Historians, Persons of great Probity and Veracity, I applied myself to inquire narrowly into this Matter, and for the Observations I have already made, I cannot be persuaded of any Fiction or Forgery in our Historians; nay, I have the Audacity to question the Genuineness of the Charter; nay, I hope to demonstrate, that it has many Marks of a Forgery, and consequently all the Vaunting about its Clearness, Brightness, and what not, is nothing but a Blast of Wind.

That there have been many forged Charters, with respect to the Affairs of *Scotland*, no-body now will deny, after the Discoveries that lately have been made. Mr. *Rymer* found among the Archives of *England*, a Form of Homage performed by King *Malcolm*, to *Edward* the Confessor for *Scotland*, and published it to the World. The learned Historian Mr. *Tyrell* first discovered that it was a Forgery, to *George Redpath*, who, when he published Sir *Thomas Craig's* Treatise of
Scot-

Scotland's Sovereignty, in *Engliſh*, thought fit, in his Preface to that valuable Performance, to ſhew, that the ſaid Form of Homage is ſpurious in ſuch an incontrollable Brightneſs, as the greateſt Audacity has not ſpirited any to make a Reply. Dr. *Nicolſon* Biſhop of *Carlisle*, in his *Scots Hiſtorical Library*, owns, that Mr. *Ridpath* has convicted this Charter of ſeveral notorious and undeniable Marks of Forgery. And our Countryman Mr. *Anderson*, in his curious Eſſay on the In-dependency of this Kingdom, has given ſome other Marks of its Suppoſitiousneſs. Mr. *Anderson* alſo, in the ſaid Eſſay, has demonſtrated againſt Mr. *Atwood*, that the Form of Homage pretended to have been made by King *Edgar*, for the Kingdom of *Scotland*, is a groſs Cheat and Impoſture. Sir *John Clark*, who has been much converſant in our Hiſtory, obſerves to me, that as Printing did not then obtain, the Clergy and others made no Difficulties to form what Stories they had a-mind; witneſs, ſays he, the Letter from King *Edward I.* of *England* to the Pope, where Facts are ſtated directly contrary to his and every body's Knowledge, with regard to Acts of Homage performed by the Kings of *Scotland* to the Kings of *England*.

*Non audet Stygius Pluto tentare, quod audet
Infamis monachus, plenaque fraudis anus.*

Engliſhed thus;

Old Nick himſelf durſt ne'er attempt for Shame,
What's done by cloiſter'd Monks and doating Dame:

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I now proceed to shew, what Grounds there are for holding this Charter, *anno* 1364, to be spurious. I shall mention these apparent Marks of a Forgery, which are noticed by Mr. *Atwood*, and confirm them; and, next, these I myself have observed.

Mr. *Atwood*'s first Observation is, "That it bears
 " a Dispensation for *Robert Stewart* to marry *Elisabeth Muir*, the Impediment of Consanguinity and
 " Affinity notwithstanding." This he judges not probable, and I am much of his Mind; for if both Consanguinity and Affinity were in the Case, there would be the greater Difficulty of obtaining it, and the Price would be very high: But so far was it from that, that it was procured at a very cheap and easy Rate, Ten Merks *Sterling*, for founding and supporting one Chaplainry, a very pityful Penalty to be exacted from one of such high Birth and Rank, as the apparent Heir of a Crown; and tho' small, it doth not appear that ever Payment was made; and he had not the Dispensation immediately from his Holiness the Pope, but from *William (Rae)* Bishop of *Glasgow*, who, as the Charter bears, was delegated for this Purpose. It is very well known, what Difficulties *Henry VIII.* in *England* met with, as to his Marriages, from the Church of *Rome*.

Another Observation made by Mr. *Atwood* is,
 " That *John, Robert's* first-begotten Son, is mentioned in this Charter, of the Date *anno* 1364,
 " under the Title of Lord of *Kyle*, as a Witness
 " (*Dominus de Kyle.*) Now this, says he, is disproved by an undoubted Record produced by
 " Lord *Tarbat*, which is a Charter of King *Da-*

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“*vid*, which he placeth to the Year 1350, attest-
 “ed by *John Stewart* Earl of *Carrick*, and *Robert's* Frst-begotten and Heir :” Upon this he
 argues unanswerably, That if *John* was Earl of
Carrick anno 1350, he could not be designed
 by a lower Title 14 Years after in a Charter 1364,
 especially by King *David*, who knew well the
 Title of Honours that was due to him; this, in
 my Opinion, amounts to a Nullity. My Lord
Tarbat, in the second Edition of his Vindication,
 gives us the Charter itself, p. 53---55. Sir *James*
Dalrymple (a) attempts to make a Reply; he says,
 “That Mr. *Atwood* discovers gross Ignorance,
 “when he speaks of a Charter granted by King
 “*David*, anno 1350; for at that Time King *Da-*
 “*vid*, being a Prisoner in *England*, granted no
 “Charter.” But if this be Fact, the gross Ig-
 norance is not to be charged on Mr. *Atwood*, but
 on the Lord *Tarbat*, afterward created Earl of
Cromarty. Sir *James* quotes some Passages from
Fordun, one anno 1355, which designs *John* by the
 Barony of *Kyle*, in an Expedition he made that
 Year under his Father the Steward; and ano-
 ther *ad annum* 1363, under the same Title: But
 these Passages rather support, than invalidate Mr.
Atwood's Argument; for his Argument is, that
 if he was Earl of *Carrick* anno 1350, he could
 not justly be degraded, or designed anno 1355
 and 1363, by a lower Degree of Honour: Nay,
 the Earl of *Cromarty* (b) makes mention of a Char-
 ter recorded in the Register of *Paisley*, given by
Robert Steward of *Scotland*, confirming all Gifts,
 granted by his Predecessors and himself, to the
 Abbacy

(a) Preface to Coll. p.

(b) Vind. p. 45.

Abbacy of *Paisley*, anno 1361; and another (a) dated 2do *Julii*, the very same Year: In both which, among other Witnesses, *John* is stiled by no higher Title than that of Lord of *Kyle*. Now, what Faith can be given to these Charters, when in a prior Charter, dated anno 1350, he is stiled Earl of *Carrick*? It will not be pretended, that he had committed any Crime, whereby he might incur a Forfeiture of that Honour. Further, how is Sir *James* sure, that King *David*, when a Prisoner in *England*, granted no Charter? His being kept long there was no Hinderance; during this Time he sent many Messages and Letters to *Scotland*, that the Ransom agreed upon for his Liberation might be paid up. See *Rymer's Fædera*. And with these the Charter might be sent; nay, if my Memory serves me, (I need not distrust my Memory, for Mr. *Rymer*, Lett. p. 16. assures me, that an Agreement was concluded, for *David* to go to *Scotland*, anno 1351.) he got Liberty to go for *Scotland*, that he might fall on Ways and Means for making the Payment effectual; and, at this Time, he might have granted this Charter.

3dly, Those who build upon this Charter have never been able to document the Degree of Consanguinity and Affinity; and if a Bull was obtained for a Dispensation, was it not as easy to have sought out the Bull itself as well as the Charter? Is it not reasonable to think, that this was to have been preserved in the Archives of the See of *Glasgow*, as well as the Charter; especially since it is said, that the Charter was recorded in the

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(a) Vind. p. 49, 50.

Register of that Church. Thus I have confirmed the Observations made upon it by Mr. *Atwood*.

I proceed now to give my own critical Remarks upon it. I have compared the Earl of *Cromarty*'s Copy of this Charter, which, he says, he had from one Mr. *Forbes* at *Douay*, with that which *Mabillon* has published, and I find, that they agree *in omnibus*, excepting, that *Cromarty*'s calls the Bishop of *Glasgow* *Zuillanus*, but *Mabillon* calls him *Wilhelmus*. My first Remark is, that both Consanguinity and Affinity are mentioned, as the Cause of asking a Dispensation (*impedimento consanguinitatis et affinitatis*.) It appeared to Mr. *Sage* to be pretty odd, that both should be assigned, since one of the two was sufficient; and therefore he translated the Conjunction (*et*) by the disjunctive Particle *or*, the Impediment of Consanguinity or Affinity, contrary to the true Signification of *et*: This shews, that he judged it a Matter of Uncertainty for which of the two the Dispensation was obtained, or which of them was the onerous Cause of the Dotation; and yet the Charter is positive, that both were the Cause. The Earl of *Cromarty* and Mr. *George Crawford* fix upon the Consanguinity as the only Cause: But their Accounts of the Consanguinity are so lame, that they afford no Satisfaction. Mr. *Crawford* (a) says, "I am informed, that one
" of the Barons of *Rowallan* was married with a
" Daughter of one of the High Stewards of *Scotland*, and they standing in the Degree of Consanguinity forbidden by the Canon Law, gave
" Occasion to the Dispensation for the Marriage."
But

(a) *Hist. of Stewart*, p. 17.

But this Gentleman does not think fit to acquaint us, who was his Informer, or what Grounds his Informer went upon. If the Informer had been a Person of known Reputation and Veracity, no doubt his Name had been told, and his *causa scientie*. This Gentleman relates many Things of Persons and Things in his laborious Writings, which he had from nameless Informers, and which need very much to be vouched. I have consulted both Mr. *Crawfurd's* Account of the High Steward of Scotland, in a Succession from Father to Son, p. 1. to p. 14. who gives an Account of the Marriages and their Children; likewise *Duncan Stewart* his Genealogy of the High Stewards of Scotland, who is more full as to their Marriages and their Children, p. 43----54; but they say nothing of such a Marriage of *Rowallan* to a Daughter of one of the High Stewards. The Earl (a) furnishes us with a Charter of King *Robert*, (he had Charters at his Command, he says he can produce twenty to confirm what he undertook to prove) confirming to Sir *Adam Muir* of *Rowallan*, all the Lands of *Rowallan*, calling him *consanguineus noster*, (our Kinsman) his Argument is, "That this Sir *Adam Muir* had a Son called " Sir *Adam Muir*, who in *Robert III.*'s Time, " (*i. e.* about thirty Years after this) in the Charter is designed *consanguineus noster*, and was indeed his Cousin-german by *Elisabeth Muir*." His Lordship was certainly one of the best Genealogists of the Nation; but he does not clear this by any Vouchers: For, by his Accounts, Sir *Adam Muir senior* must have been Brother to *Elisabeth*

(a) *Vind.* p. 67.

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Elisabeth ; but our Historians make *Elisabeth* to be the Daughter of Sir *Adam Muir*. His Lordship produced another Charter (a) by *Robert Duke of Albany Earl of Fife and Monteith*, Governor of Scotland, dated at *Doun in Monteith*, the penult Day of *August anno 1415*, and of his Government the 10th Year, where he calls *Adam Muir of Rowallan* his Cousin : But this Charter is defective, having no Witnesses, and it does not specify the Degree of Consanguinity. Mr. *Sage* perused both the Earl's Vindication, and Mr. *Crawfurd's* History of the Family of *Stewart*, but durst not rely upon Mr. *Crawfurd's* Information, nor upon the two Charters adduced by the Earl, but keeps in general Terms (b) ; “ She (*i. e. Elisabeth Muir*) was well born, a very handsome Lady, and she was his near Kinswoman, and lived in his Neighbourhood ; so that he had frequent Opportunities of seeing her, and conversing with her ; than which what can more naturally, or more readily encourage Love ? ” This last must be a rational Account of his having so many Sons and Daughters by her, in an unhallowed Way ; but because she was well born, it does not follow, that she was his near Kinswoman. Besides, it is most common for Princes, in their Charters, to call great and considerable Persons of ancient Families their Cousins, though the Relation be so remote that it cannot be counted, or though there was no Relation at all ; So in this very Charter, *Archibald Douglas of Galloway* is called *Robert's* Cousin, and so is *Sir Thomas Erskine*. And in a Charter of *John*,
(alias

(a) *Vind. p. 69.* (b) *Introd. p. 41.*

(*alias Robert*) published by *Mabillon*, at *Dundonald*, anno 1371, *John Kennedy* of *Donbencoir*, is stiled *dilectus et consanguineus noster*: But I judge, that it will be extremely difficult to shew, that they were *Robert's* Cousin-germans. In fine, I cannot omit to observe, that the Manner of expressing the Impediment in the Charter is very singular; *Non obstante impedimento consanguinitatis et affinitatis constructui matrimoniali prædicto impedimentum præstante, i. e.* the Impediment of Consanguinity and Affinity notwithstanding putting an Impediment to the Marriage.

Mr. *Sage* (a) observes, "That it is most clearly and emphatically imported in the Words of this Charter, that the Dispensation was obtained, nay that *Elisabeth* was dead, some considerable Time before it was granted." The Earl of *Cromarty* informs us (b), "That before it was granted, there was a prior Obligation to mortify a Chaplainry in the Kirk of *Glasgow*, and that the Charter was in Implement of that prior Obligation." I own, that, if the Charter is genuine, there was a Power delegated to the Bishop of *Glasgow* to dispense with the foresaid Impediment, in order to *Robert's* marrying *Elisabeth Muir*; but the Words of the Charter (*cum dudum venerabili patri Domino Wilielmo Dei gratia Episcopo Glasguensi fuerit per literas Apostolicas specialiter delegatum*) leave us at a great Uncertainty as to the Time when the Power was delegated, because of the several Significations of the Adverb *dudum*; sometimes it is used for a great while since, or a good while ago, and sometimes for

(a) *Introd.* p. 40. (b) *Vind.* p. 7.

for *but late* ; see *Lexicographers*. Nay, *Robert* himself does not seem to know or remember, when the Delegation was made, whether it was a good while ago, or but late: This surely has no favourable Aspect as to the Authenticity of the Charter. The Pope's Dispensation merited to be recorded in one of the two Register-books of the Bishoprick of *Glasgow*, of which Sir *James Dalrymple* speaks, and which, as it is said, the Bishop carried away with him at the Reformation ; or it is probable, if there had been any such Delegation, the Mandate, or the Pope's Bull for it, had been preserved among the Archives ; for the *Parisian* Publisher speaks of the Archives, but this material and essential Document is wanting ; so that it still remains *in dubio*, if ever there was such a Dispensation ; or if there was, it does not appear that it was used ; but only that the Bishop would be pleased, if one Chapel was founded and endowed, and that a Method was laid down to make it effectual, but not that it was actually done ; though, as the Earl says, there was a prior Obligation. Now, if the Marriage did follow upon this, then it is a great or a good while between granting the delegated Power, and making the Marriage, which seems to be very strange ; for neither the Pope, nor the Bishop appear to have been exorbitant in their Demand, as to the Price. Thus we must still doubt, that there was a Marriage by virtue of a pretended Dispensation from the Pope. I still incline to think, with our Historians, that *Robert*, after the Death of *Euphemia Ross*, took *Elisabeth Muir* to be his Wife, that her Children might be legitimated :

And as to this, *Buchanan* adds, in the Place already quoted, that this was the Sentiment of many. His Words are, *Ut a multis traditur*. It is very true, that *Major* makes Mention of a Dispensation; "King *Robert* (*says he* (a)) did in Fact or actually take one of Sir *Adam Muir's* Daughters for his Wife, whom afterwards by a Dispensation he took to be his Miss," &c. Now as to this, let us see what Character the Earl of *Cromarty* (b) gives of *Major*. He says, "That *Major* cites no other, nor can we learn of any he had, except the MSS. of the Continuator, an obscure Man, whose Writings shew, that he did take common Reports as Proofs and Warrants for his Assertions." And I add, that *Major* is the only Historian that speaks of a Dispensation, and he does not call it a Papal Dispensation. There is not the least Hint in *Major's* History, that there was either a Dispensation from the Pope, or one by a Delegation from the Bishop of *Glasgow*: But, being unwilling to reject the Authority of *Major*, who seems to be an honest and impartial Historian, I presume to make the following Conjecture, that the Dispensation was granted by the Parliament; for the Latin Word *dispensatio* came to be used long before, as a juridical Word, or as a Term of Law, and signifies a slackening or relaxing the Law, upon weighing the Necessity for it. And *Robert* being to take *Elisabeth Muir* to be his Wife, for his first Wife

was

(a) *Gest. lib. 4. cap. 17. Iste Rex (i. e. Robertus) de facto unam, de filiabus Ada Mure militis, sibi copulavit, quam postea per dispensationem uxorem duxit.*

(b) *Vind. p. 74.*

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was dead, and having so many hopeful and promising Children by her, *Euphemia's* Children being young and unfit for Government, and *Robert* having in the Time of King *David's* Captivity governed well, as Regent, and his Son *John* (*alias Robert*) having also behaved himself valiantly in the War, the Parliament granted him an Allowance to marry her, and did recognize *John*, his first begotten, to be *Robert's* Heir, and legitimated all the other Children, and this was *John's* (*alias Robert's*) Title to the Crown: So that the Dispensation was not because of the alleged forbidden Degrees of Consanguinity and Affinity, but because these Children he had with *Elisabeth* were born before he had married *Euphemia*; and though this was the Case, the Parliament would not serve a Bill of Exclusion against them. They had Precedents for making Bastards Kings of *Scotland*, as *Gillus* our 13th King, and *Duncan II.* our 88th King. See p. 53. But as the Advocates for the Legitimacy of *Robert III.* are at a Loss to find out the Time, when the alleged Dispensation was obtained, so they cannot agree, whether the Dispensation was granted for a Marriage to be made with *Elisabeth*, or for a Marriage already made with her: The Earl of *Cromarty* is for the former; but Mr. *Sage* is for the latter. The Earl founds his Opinion on the Words of the Charter, *Supra matrimonio contrahendo* (a), i. e. a Marriage to be contracted, which, says he, could be no less than ten or twelve Years before the Date of the Charter; and its Date being anno 1364, ten or twelve Years before it, will

(a) *Vind.* p. 63.

will be *anno* 1352 or 1354; by which Means *John* (*alias Robert III.*) was called to be a Witness to that Deed, when he was but ten or twelve Years of Age. Mr. *Sage* being dissatisfied with the Earl's Account, thinks that the Dispensation was for a Marriage already contracted; and therefore he says (*a*), "That we may, with great Reason, allow, that he might have married her, and that privately too, while he was of Age, about nineteen or twenty, *anno* 1337 or 1338, &c. before the Dispensation was obtained, which yet might have been obtained *anno* 1337 or 1338." But how can it be allowed, that it was obtained about two Years after the Marriage, when he tells us afterwards (*b*), that before the Dispensation was obtained, *Elisabeth* had born to him perhaps most, if not all her Sons, when this would have been in the Space of two Years; and again (*c*) he asserts, that *Alexander* his fourth Son was one of *Elisabeth's* youngest Children: So that not only most of the Sons, but most of the Daughters also were born before the Dispensation was procured; for according to *George Crawford*, he had by her no less than six Daughters: But it would be endless to mention all the Inconsistencies of this Reverend Author, and mighty Champion for the hereditary Right of our Kings.

Mr. *Sage* supposes, that the Marriage was private and clandestine, taking the Hint from what the Earl of *Cromarty* advanceth (*d*), who acquaints us, "That one Mr. *John Learmond* Chaplain to *Alexander* Bishop of *St. Andrews*, in his Col-
" lection

(*a*) *Introduct.* p. 41. (*b*) *Ibid.* (*c*) *Ibid.*

(*d*) *Vind.* p. 70.

“lection of the *Scots Antiquities*, asserts, that he
 “saw a Certificate under the Hand of *Roger*
 “*Mac Adam* a Priest, bearing, That he did
 “marry *Robert*, the great Steward of *Scotland*,
 “to *Elisabeth Muir* Daughter to *Rowallan*.”
 This probably made *Mr. Sage* take up the Opin-
 ion that the Marriage was private; for had it
 been publick, *Robert*, the great Steward of *Scot-*
land, would have been married by one of a supe-
 rior Order, by some Abbot or Bishop: But this
 Account of a Certificate is like many other Ficti-
 ons made in this Matter by our Antagonists; for
 we are not told where this Priest served the Cure,
 where and when he celebrated the Marriage; and
 it would seem it was so private, that there were
 no Witnesses, for none are mentioned.

Mr. Sage maintains, that the Dispensation was
 procured for legitimating a Marriage already
 made, even tho’ both he and the Charter own
 the Impediment of Consanguinity: But tho’ I
 know what the legitimating of Children means,
 I do not so well understand, what the legitimat-
 ing of a Marriage is; for the known Doctrine of
 the Church of *Rome* is, that Marriage is a Sacra-
 ment; and if any one Sacrament is greater than
 another, Marriage is it: Hence in their vulgar
 Version, they translate that Passage of the Apostle
Paul to the *Ephesians* (a), speaking of Marriage,
This is a great Mystery, hoc magnum sacramentum
est, i. e. this is a great Sacrament: And it is like-
 ways their Doctrine, that if any of the Sacraments
 is dispensed by a Priest canonically ordained, the
 Sacrament so dispensed is *ipso facto* valid. If he
 means

(a) Chap. v. 32.

means by legitimating the Marriage, the making an unlawful Marriage forbidden by the Law of GOD, because of the forbidden Degree of Consanguinity, to be a lawful Marriage, no Power on Earth can legitimate it, or make it lawful, unless the Pope of *Rome* has a Power above GOD, a Power of dispensing with his Laws; and if this is Mr. *Sage's* Meaning of the Legitimation of this Marriage by the Pope, it still remains that *Elizabeth's* Children were Bastards, not only before, but after obtaining the Dispensation, *i. e.* Children of Wedlock condemned by the Law of GOD.

Mr. *Sage* affirms, that, upon the obtaining the Dispensation, there followed a canonical Solemnization, and Approbation of the Marriage, the Impediment of Consanguinity notwithstanding: But this is to carry the Matter too far; for the dispensing with a Fault or Crime, does not import an Approbation of it.

I proceed to give other Remarks upon this famous Charter, so much boasted of, which weaken, if not overthrow its Authenticity. *Robert*, when he was but Steward of *Scotland*, and six Years before he was King, assumes a lofty Stile, and speaks of himself *more moderno magnatum* in the plural Number, *Noverit universitas vestra nos dedisse, concessisse et confirmasse*, &c: *i. e.* Be it known to you all, that we have given, granted and confirmed, &c. he useth the Word *universitas*, because the Charter is directed, not only to all that shall see the Charter, but to all that shall hear of it, *omnibus visuris vel audituris*; there seems to be something of Art and Manufacture in this; it is
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designed to discredit the Account given by our Historians of the Bastardy of *Robert III.* that such as shall hear of this Charter, tho' they never saw it, may not believe our Historians; the dignifying Phrase, whereby the Steward of *Carrick* speaks of himself, was not then used by our Kings, far less by Subjects. Mr. *Anderson* in his *Appendix* to his Treatise on the Independency of our Kings, gives us five Charters of *Edgar King of Scots*; in all which, speaking of himself, he useth the singular Number, *sciatis quod ego, sciatis me, &c.* And in a Charter by *William King of Scotland*, to the Monks of the *Cestertian Order*, *Notum sit vobis, quod ego.* Sir *James Dalrymple* gives us some more (a), one of King *William*, *Sciant presentes et futuri me dedisse*; one of King *David* (b), *Sciatis me dedisse, &c.* another (c), *Ego David Dei gratia concedo.* And as our Kings speak of themselves in the singular Number, so did the greatest of the Subjects (d). *Walter*, the Son of *Cospatrick*, in the Charter of *Dundas*, *Sciatis me dedisse*; and (e) *David*, the Son of King *Malcolm*, in the Charter of the Foundation of the Abbacy of *Selkirk*, whom the Charter calls *comes*, *donavi terram de Selechyreche*, and *notum sit me fundasse*; and (f) and one by *Alexander* the Son of *Malcolm*; *Ego Alexander Dei gratia, &c.*

I observe, that the Salutation contained in this Charter, is rather the Language of a Priest, than of a Prince; it is *salutem in domino sempiternam*. I do not observe the like in any Charter granted by a Laick, except in another by the same *Robert*,

(a) Coll. p. 271. (b) P. 361. (c) P. 382. (d) Dalr. Coll. p. 382. (e) P. 403. (f) P. 371.

bert, published by the Earl of *Cromarty*; whereas in one of this, *Robert*, and in another of his Son, published by *Mabillon*, it is simply *salutem*. Again, the Charter makes *Robert* to speak of his Wife when dead, with no Mark of Esteem or Affection he had for her, tho' she was exceedingly beautiful, and a fruitful Vine; there is not one Word of Commendation: But *Robert*, very bluntly, says, *Quondam Elisabeth Muir dum agerit in humanis*, i. e. the late *Elisabeth Muir*, while she was alive, and yet in a Charter, which the Earl of *Cromarty* gives us (a) *Robert* a good Time after, in the 12th Year of his Reign, which must be in the Year 1383, he speaks with a feeling and kind Strain of her, *dilectam nostram Moram*; this surely is not easy to be accounted for.

The Clause of Warrandice in this Charter is of a very extraordinary Nature; it is *contra omnes homines et feminas warrantizabimus*, i. e. against all Men and Women, as if the Word *Women* were not included under the *Latin* Word *homines*, which is of the common Gender; the ordinary Form of Warrandice is *contra omnes mortales*, i. e. against all deadly: But to make express mention of Women in a Clause of Warrandice, I suppose is not to be met with in any Charter but this.

I cannot omit to remark, that the several Persons mentioned as Witnesses, are not said to have subscribed this Paper; this is not said either in *Cromarty's* Copy or *Mabillon's*. Now, in common Sense and by our Law, tho' Persons are narrated as Witnesses to an obligatory Deed, or a Contract, Charter, Bond and Testament, yet if it appears, that

that they have not subscribed these as Witnesſes, the Deeds are *ipſo facto* void and null.

Having advanced the foreſaid Conſiderations, which are ſufficient to convince any unprejudiced Perſon, that the ſaid Charter is not genuine; it remains that I take the Arguments brought by the *Parifian* Antiquaries and Publiſhers, for proving its Authenticity under my Review: The firſt is a very ſtrange one; the Words of the Charter bear, “That *Robert* was married to *Elifabeth Muir*; that, for this End, the Pope’s Diſpenſation was obtained; and therefore the Audacity of *Buchanan*, who writes that they were not married till the 1374, is expoſed; and the Charter bears, that *Elifabeth* was then dead, and therefore ſhe could contract no Marriage with *Robert* ten Years after her Death.” In answer, I own that theſe Inferences neceſſarily follow, ſuppoſing the Charter to be genuine; but this is what was undertaken to be proven, but rather the contrary has been demonſtrated: This Argument takes for granted, that which is *in quæſtione*, contrary to all the Rules of Logick, and is a ridiculous *petitio principii*.

Their ſecond Argument is, “That *John Stewart*, Lord of *Kyle*, is ſtiled *Robert’s* Firſt-begotten and Heir, and therefore he was his lawful Son then; for no Perſon is called a firſt-begotten Son and Heir, who is not begotten in lawful Marriage; and therefore it is falſe, which *Buchanan* aſſerts, that he was begotten by an unlawful Coition, and that he was legitimated by a ſubſequent Marriage.” But *Buchanan* is not alone in theſe Aſſertions, *Fordun*, *Boece*, *Leſly*,
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Hautbornden, *Scottish* Historians; *Holinshed* and *Saunderson*, *English* Historians, assert the same Thing, as I have already made evident; Why then is *Buchanan* only attack'd? See from *p.* 50. to *p.* 60. The calling *John* Lord of *Kyle*, in this Charter, is by itself sufficient to shew, that the Charter is a Forgery. See *p.* 62, 66, 67. I refuse the Consequence, that because *John* is stiled *Robert's* First-begotten and Heir; ergo, he was a Son of lawful Wedlock: For, is it a Thing unheard of, for a Man that has had several Bastards by a Woman to declare, that the First-begotten of them shall be his Heir? Is it not possible for a very handsome and most beautiful Woman, as *Elizabeth* is given out to have been, even by our Antagonists, to have a mighty Influence upon him that kept her? Have there not been many Instances of this? Has it not been known that a Man has had a more than ordinary Affection for a Bastard, nay for him more than for one lawfully begotten? May not a Bastard ingratiate himself by his obliging Behaviour, or by his Valour and Conduct in a War against the Enemies of the Kingdom, as is alledged in this Case? And is it improbable that a Bastard Son will gain the Favour and Esteem of the People? Did not the Duke of *Monmouth* obtain this? We own, that *John* is called his First-begotten and Heir, before he married *Elizabeth Muir*; but it was his personal Estate he made him Heir of: And Heir of the Kingdom of *Scotland* he was not, till he and the other Children were legitimated; and then, by an Act of Parliament, it was declared that he shall be Heir, and that he shall be Successor to his Father,

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Father, as it will appear in the Sequel. If here it is objected, That if *John* a Bastard was *Robert's* Heir to a personal Estate, it cannot be thought that *Eupham Ross* would marry him. To this it is answered, That *Eupham Ross* was a Widow, when she was married to *Robert* the Steward of *Scotland*, and she might be willing to marry him upon easy Terms, if he made a certain Provision for her and her Children; this was done afterwards by bestowing Estates, and conferring Honours upon them. Now *Eufemia* happening to die, *Robert* married *Elisabeth Muir*, by whom he had had many hopeful Children: *John* was his favourite Son; and while *Robert* was a Subject, he intended that *John* should inherit his personal Estate; but that he might succeed him to the Crown, he married *Elisabeth* his Mother, and so *John* was legitimated, and thereby all Dispute about his Succession was prevented: This is the rational Account that is given us by our Historians concerning *Robert's* Wives and Children. The Antiquaries, to confirm their second Argument, appeal to Sir *Lewis Stewart*, King's Advocate under the Reign of King *Charles I.* who said, "He had found more than twenty Charters among the Archives of the Castle of *Edinburgh*, from which it appears clearer than the Sun, that *Elisabeth* was *Robert's* first Wife, and *Euphemia* his second." See my Answer to this.

The third Argument of the *Parisian* Antiquaries is, "That the Act of Parliament recognizing *John*, and declaring his Legitimation, is not to be found among the Archives, altho' the publick Records have been carefully searched by

“ by Men most skilful in these Matters : Sir *John*
 “ *Hay*, Clerk of the Register and Rolls, was
 “ commanded by King *Charles* I. to inspect the
 “ Acts of Parliament ; but he found every Thing
 “ to the contrary.” Here we want to know
 their Vouchers for this Order of King *Charles*, and
 of the Report that Sir *John* made to him, and
 what these Things to the contrary were, which
 Sir *John* found ; all this is a bare Assertion, not
 supported by any habile Document. Is not
Buchanan’s Assertion, as much to be regarded as
 Sir *John*’s, when he expressly says, (a), “ That *Ro-*
 “ *bert* obtained from the Parliament met at *Scoon*,
 “ that passing the Children of *Eufemia*, in making
 “ a King, the Order of the Age of his Children by
 “ *Etisabeth* should be observed ?” Is Sir *Lewis*’s
 naked Assertion to be held as a Confutation of
Buchanan ? Again, it is certain our Records were
 carried away by *Oliver Cromwell* ; and tho’ King
Charles II. ordered them to be restored, and tho’
 they were shipped off for *Scotland*, many of them
 were lost in the Passage by Shipwreck, and the
 rest that were preserved are, to this Day, in Hogs-
 heads, some of which have never been opened up,
 nor searched ; but many of them were carried a-
 way before that by *Edward* I. King of *England* ;
 and our Antiquaries themselves own, that the Bi-
 shop of *Glasgow* carried off at the Reformation the
 Records and Archives of this Church to *Paris*.
 But further, it cannot be thought, that Sir *Lewis*
 could

(a) *Hist.* p. 168. *Comitiis ad Sconam indictis obtinuit,*
ut prateritis Eufemia liberis in rege creando gradus atatis
observarentur, &c.

could declare *bona fide*, what is alledged, since Sir *John Skeen* before him in the very same Office, and Sir *Thomas Murray* after him, in their chronological Tables, plainly say, That *Eufemia* was *Robert's* first Wife, and that *Elisabeth Muir* was his second. Again, tho' the *Parisian* Antiquaries deny this Act of Parliament, yet the Earl of *Cromarty*, who knew more of our *Scottish* Affairs than they all, owns there was such an Act; but falls upon a Method to evade the Force of it (a), when he pretends to answer an Objection that might be made to all his Arguments; for the Legitimacy of *Robert III.* taken from the Act of Parliament recognizing him, viz. Why should a Parliament recognize him to be King *Robert's* Son and Heir, unless there were Ground to doubt it? For an Act of Parliament was necessary to make it to be believed. The Earl, in Answer to this, does not deny, that there was such an Act of Parliament, but owns it. The Answer he makes is, first, "That it was ordinary for our Kings
 " to make publick Declarations of their eldest
 " Son's Succession; *David* the First did send
Malcolm his eldest Grandchild by *Henry* the Prince, with *Macduff* Earl of *Fife*, through the whole Kingdom, to be shown and declared as his Successor and Heir: But then, this is no more than what he did to *William* his second Grandson, that he might be declared Earl of *Northumberland*, for this End he sent him to *Newcastle*, and yet surely the eldest Son had the Right: This afterwards created no small Contention between them (see *Boece*, *Major* and *Buchanan*) to that Degree, that
 the

(a) *Vind.* p. 72.

the strong Bands of Kindred and natural Affection were broken asunder (a). *David* foreseeing this, caused his Grandchild to be sent through the Kingdom. The Earl's second Answer is, that this Custom of declaring the Successor, was judged more necessary by King *Robert Bruce* and his Successors; for the Debate in the Succession betwixt the *Baliol* and the *Bruce*, having brought the Kingdom to the very Brink of Ruins, King *Robert Bruce* before his Death, did in Parliament declare, that *David* his Son was his undoubted Heir and Successor, albeit at that Time he had neither Son nor Brother but *David* only; for his Brother *Edward* was dead long before that: But (I shall not examine this Matter) was there not as great Necessity for recognizing *John*, when *Euphemia Ross Robert's* first Wife's Children had a prior Right to the Succession?

The fourth Argument of the Antiquaries is taken from the Authority of Sir *George MacKenzie*, who in his Dissertation cites two Acts; the one is dated anno 1364, in which *John Stewart* is designed *Lord of Kyle*, and *Robert's* first begotten and Heir. My Answers to their second Argument, I hold as here repeated, which sufficiently overthrow this Part of the fourth Argument. The other is a Charter of *David II.* the Uncle of *Robert Stewart*, in which *John* is called *Robert's* first begotten Son and Heir. As to this I hold also my Answers to their second Argument as repeated. But further, the Earl of *Cromarty* placeth this Charter to the Year 1350, and in it

John

(a) *Gest. lib. 3. cap. xi. Successu temporis fraternitas et omnis parentela inter regem et Gulielmum extincta fuisse.*

John is stiled *the Earl of Carrick*, which destroys the above Charter 1364, stiling him *Lord of Kyle*; this is full fourteen Years after 1350.

Their fifth Argument is, That in the Year 1371, the first Year of *Robert's* Reign, there is a Charter of *Robert*, in which *John* is called *Robert's* first begotten, and stiled *Earl of Carrick*, and *Steward of Scotland*; which is preserved in the *Scottish College at Paris*, with the Great Seal of *Scotland* appended to it, in which likeways *Robert Earl of Monteith* is a Witness: He was *John's* Brother by *Elisabeth Muir*, and yet *Buchanan* says, " That these Honours of *Earl of Monteith*, and " *Earl of Carrick* were not bestowed on them, " till the Year 1374, when *Elisabeth's* Children " were legitimated by the Marriage." But *Buchanan* in the Passage referred to (a), is delivering the Sentiments of others; for he says, as it is reported by many; he delivers not his own Mind, but that which was the Opinion of many; and it seems that Honours were then conferred: For it is said *Badzenoch* was added to *Alexander*, and that *Fife* was added to *Robert Earl of Monteith*; for both *Skeen* and *Murray*, in their chronological Tables, call *Monteith Earl of Fife*. As to *John*, the Honour of being *Steward of Scotland* might be confirmed to him by the said Act of Parliament; for it did not belong justly to him till the Marriage was sustained. I hold here as repeated my Observations on this Charter in Page 94th, which void this Charter. The Antiquaries mention another Charter preserved among the Archives of the *Scottish College at Paris*, granted the same Year

1371,

(a) *Hist. p. 168. Quod a multis traditur.*

1371, by *John Robert's* first begotten, Earl of *Carrick* and *Steward of Scotland*: For Answer to this, see my Remark upon it, p. 95, which alone makes it invalid.

For the sixth Argument, they refer to Sir *George MacKenzie's Dissertation*, who says (a), "That there is a publick Deed anno 1371, the first Year of King *Robert's* Reign, bearing the Oath of Fidelity of all the Estates of the Kingdom to *Robert II.* and to *John* his first begotten Son, and lawful Heir of the Kingdom, having the Seal of the three Estates appended to it;" and that Sir *George* saw it, and many other Charters granted the very same Year, in which *John* is stiled *Earl of Carrick*, and *Steward of Scotland*. Sir *George* I find had Information concerning this Charter from Lord *Tarbot*, afterward Earl of *Cromarty*, who gives the Charter itself (b); but it rather militates against the Advocates for *John's* Legitimacy, than

(a) *Dissert.* p. 48.

(b) *Vind.* p. 35-----39. Rex volens ----- cum abundanti et unanimi consensu et assensu dictorum pralatorum, comitum procerum et magnatum, indicavit, asseruit, et recognovit, declaravit et voluit, quod cum ipsum contigerit, pro dispositione divina, ab hac luce migrare, Dominus *Joannes* filius suus primogenitus, comes de *Carrick* et Senescallus *Scotia*, erit et esse debet verus legitimus haeres suus, ac sibi post mortem suam in regno *Scotia*, Domino disponente, succedere et succedere debet, et post eum sedebit et sedere debebit super solium regni sui ----- unus quisque pralatorum, comitum procorum, magnatum et aliorum ibidem existentium, voce propria, singulatim pro se, heredibus suis asseruit, affirmavit, declaravit, recognovit et voluit, quod idem Dominus *Joannes* post mortem praefati patris sui, superstes et vivus, sit, divina favente gratia, futurus Rex *Scotia*, tanquam haeres legitimus patris sui, &c.

than makes for it ; because it does not in the least insinuate, that before it past, *John* was the lawful Heir of the Kingdom, as our Antiquaries assert ; but in it the King and the Estates declare, *That he shall be Heir of the Kingdom, i. e.* that he shall succeed to the Crown, upon the Demise of his Father : It declares, *That he shall be, and ought to be his true lawful Heir ; that he shall succeed, and ought to succeed ; that he shall sit, and ought to sit on the Throne of the Kingdom :* So that all the Charters these Antiquaries, and other Advocates have produced, which are of a Date prior to this Act, when they speak of *John's* being Heir to *Robert*, are not to be understood of his being Heir to the Kingdom, but to the whole, or a considerable Part of his personal Estate : None of them calls him *verus et legitimus hæres*, as this does ; and this Act having given a Determination in this Matter, it says, *That he shall be, and ought to be his true lawful Heir, Erit et esse debet verus et legitimus hæres, viz.* of the Kingdom ; for had he been this before, it was altogether impolitic, if not nonsensical, to say,, *That he shall be, and ought to be his true and lawful Heir.* It must now be surprizing, and be beyond all Comprehension, to find, that the learned Antiquaries make this Act an Argument to support their Cause, when it for ever destroys it, to all Intents and Purposes ; especially when not only the Assent and Consent of the Estates of Parliament are procured to it, but their solemn Oath is interposed for maintaining that Succession : But further, that there might be no Dispute about this Succession, or Opposition be made to it, *John* married *Elisabeth Muir*, by which

Marriage her Children were legitimated, and had the Benefit that Children lawfully begotten have.

The seventh Argument of our Antiquaries is, “ That since in a MS. History, in the Library of the *Scottish* College at *Paris*, there is not one Word of the Legitimation of *Robert III.* it must therefore be a Fiction; which Argument, though a negative one, must be of great Moment in this Matter, since the Author declares he was born *anno 1386* or *1387*, in the Reign of King *Robert II.* that he looked narrowly into our Affairs.” But a negative Argument, taken from the Manuscript of an anonymous Author, of whose Veracity and Reputation we can have no certain Knowledge, shews, that the Gentlemen are exceeding straitened for Arguments to support their Cause: They say, “ That this Author usually insists on giving the Genealogy of our Kings.” A very fit Hand indeed, when he could not be certain when he himself was born, whether *anno 1386* or *1387*. Strange! that none of his Relations, or none of the Neighbourhood of the Place of his Birth, could so much as inform him of the Year. Again, our Antiquaries alledge, “ That the Author of this Manuscript asserts, that *John* succeeded his Father *Robert II.* without any Opposition or Tumult, *anno 1390*, and was crowned at *Scoon* after the usual Manner, when, by the Consent of the Estates, he was called *Robert III.* they swear Allegiance: And is it credible, that his Brother by *Euphemia Ross* would have gone into it, because of his spurious Birth, without Opposition, especially since he was lame by a

“ Fall

“ Fall from a Horse, and so was rendered unfit for Government ? ” To this it is replied, that the Opposition to his Succession was rather to be feared, from the *Douglasses* ; for when *David II.* died, *William* Earl of *Douglas* gave in his Claim, as the lawful Heir, as having descended from both *Baliol* and *Cumin*, (see p. 4.) against the Pretensions of *Robert II.* the Father of *Robert III.* But the Succession being settled with the Consent of the Estates of Parliament, he saw it necessary to drop his Claim : But one would have thought, that upon the Death of *Robert II.* the *Douglas*, or his Heir would have revived their Claim, especially since the Family of *Douglas* had the greatest Influence of any Family in the Nation ; and since it was greatly strengthened by his Marriage with a Daughter of King *Robert*. Again, *Robert II.* reigned no less than twenty Years after his Coronation ; for he died not till the Year 1390 : In such a long Time, he had by his good Reign firmly established himself upon the Throne, and secured the Succession in Favour of his Son *John*. And lastly, it seems that *Euphemia*’s Children were fully convinced, that it would not be safe in such a Situation, to make Opposition to such a Succession established by Act of Parliament, anno 1371 : However *Walter*, *Euphemia*’s Son, after this, thinking himself injured, plotted the Death of King *James I.* and accomplished it, that in the Minority of *James II.* he might get the Possession. See p. 76, 77.

The *Parissian* Antiquaries conclude their Observations and Arguments, by adducing the Testimony of *John Major*, as they conceive, in Favour

your of *John's* Legitimacy. The Passage in *English* is (a), " King *Robert II.* begat on *Elisabeth Muir*, the Daughter of Sir *Adam Muir*, three
 " Sons, *John*, who was afterwards King, and
 " *Robert* Duke of *Albany*, and *Alexander* Earl of
 " *Buchan*. After this, he begat on *Euphemia* the
 " Daughter of the Earl of *Ross*, *Walter* Earl of
 " *Athol* and Lord *Brechin*, and *David* Earl of
 " *Strathern*: *Elizabeth* the Queen being dead, he
 " took this *Euphemia* to be his Wife; and upon
 " Account of the Marriage, the Children were
 " legitimated." The Antiquaries observe on this
 Passage, that it confirms their Sentiment concern-
 ing the Death of *Elisabeth Muir*, before the Mar-
 riage of *Robert* with *Euphemia*; and no doubt it
 doth, as *Major's* Printers, both in the old and new
 Edition of his *Gesta*, have published it: But they
 have committed a gross Blunder in both Editions,
 by transposing *Elizabetha* for *Euphemia*; whereas
 they should have printed it thus, *Mortua enim*
Eufemia regina hanc Elizabetham in conjugem accepit,
et matrimonii gratia proles legitimatae sunt. This
 Correction was justly made by Sir *James Dal-*
rymple (b), " Because, says he, we must never force
 " Nonsense and Falshood on an Author, when
 " it can be made appear, that it is a typogra-
 " phical

(a) *Gest. lib. 4. cap. 6. Ex Elizabetha filia Domini Adam Mure, tres filios Robertus secundus Rex genuit, scil. Joannem, qui postea fuit Rex, et Robertum Albania ducem, et Alexandrum Buchania comitem. Postea ex Eufemia Rossensis comitis filia, Gualterum comitem Atholia et dominum de Brichin, et Davidem comitem de Strathern genuit. Mortua enim Elizabetha Regina hanc Eufemiam in conjugem accepit, et matrimonii gratia proles legitimatae sunt.*

(b) *Pref. p.*

" " " con of gra Joh mo Mr by till Pass but band Cha Mig mus died King again Gesta says " no " M " de " an Mr. sabeth false, it, h 1364 Eufen proles

“ phical Error, especially since the Error is such
 “ as makes him contradict himself in another
 “ Place of his Book.” And yet Mr. *Sage* (a)
 contends most fiercely against Sir *James*, the Earl
 of *Cromarty* and Mr. *Rymer*, that there is no typo-
 graphical Error ; thus we have the Advocates for
John’s Legitimacy again, at great Variance a-
 mong themselves. Now, if the Antiquaries and
 Mr. *Sage* will not allow of the Correction made
 by Sir *James*, it will follow, that *Elisabeth* lived
 till *Robert* II. was made King ; for she is in the
 Passage as it is printed, called *Elisabetha Regina*,
 but this she could not possibly be, till her Hus-
 band was King ; and consequently the famous
 Charter, *Anno* 1364, which, with all their
 Might, they have been supporting as genuine,
 must go for nought, which makes her to have
 died six Years at least before *Robert* was made
 King, and yet Mr. *Sage* is so obstinately stiff
 against any Error in the Editions of *Major’s*
Gesta, that he runs into extravagant Blunders. He
 says b), “ It is a very pardonable Impropriety,
 “ not quite destitute of all Foundation : What if
 “ *Major* called *Elizabeth* a Queen, as having in-
 “ deed been the Wife of one who was a King,
 “ and the Mother of another King.” But will
 Mr. *Sage* say, that *Robert* was a King before *Eli-*
sabeth’s Death ? unless he says this, which is most
 false, he speaks not to the Purpose ; and if he says
 it, he destroys the Tenor of the Charter, *anno*
 1364. Again, since *Major’s* Words are, *Hanc*
Eufemiam in conjugem accepit et matrimonii gratia
proles legitimata sunt ; it is evident, that some
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Children were legitimated, either *Elisabeth's* or *Eufemia's* Children; if he says *Eufemia's* Children, he contradicts all our Accounts; for none ever doubted of the Lawfulness of *Robert's* Marriage with *Eufemia*; but if the Children of *Elisabeth Muir* are meant, when it is said by *Major* that the Children were legitimated, then it is plain, that in *Major's* Words as they are printed, there is an erroneous Transposition of the Names *Elisabeth* and *Eufemia*; and that upon correcting the Passage, as *Sir James* has done, it follows that *Major* was of the same Sentiment with *Buchanan*, and our other Historians. And that the Children, who were legitimated, must have been *Elisabeth's*, is plain from this, that he kept *Elisabeth* as his *Miss*, before he married her; for this is what *Major* says in another Place (a), "This King (*Robert*) took for his Use, one of the Daughters of " *Sir Adam Muir*, whom afterward by a Dispensation he married." I am persuaded that *Mr. Ruddiman*, if he had duly weighed these Things, would not have hesitated about *Major's* being of the same Sentiment with our other Historians, concerning *Robert's* Wives and Children, (*uno forte Majore excepto.*)

Thus I have made a satisfactory Reply to all the Arguments advanced by the *Parisian* Advocates, the most of which they had borrowed from *Sir George Mackenzie's* Dissertation, and which the Earl of *Cromarty* has repeated in his Vindication.

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(a) Gest. tib. 4. cap. 17. Iste rex (*Robertus*) de facto unam de filiabus *Ada Muir* militis sibi copulavit, quam postea per dispensationem duxit uxorem.

It remains now, that I consider the Attestations given to the Charter of the Date *anno* 1364, both by the *Parisian* Antiquaries and the *Scots* Nobility and Gentry at *Paris*, *anno* 1694.

Mr. *Innes* says, " That *James Beaton*, Archbishop of *Glasgow* at the Reformation, *anno* 1560, came into *France*, and brought with him the Records of his Church (*acta et instrumenta ecclesiae suae*) for their Preservation, and deposited them partly in the *Scottish* College, and partly in the *Carthusian* College in *Paris*; and, in the Year 1694, he having fallen upon the Charter, produced it before the most skilful Antiquaries of *France*." Thus, according to his Account, it has been kept in great Obscurity, for the Space of 134 Years; and no Antiquary in these Colleges did all that Time make this grand Discovery; till King *James*, after his abandoning *Ireland*, as he had formerly deserted *England*, was come to *St. Germain*s with his Family and Court; or, it seems, his Predecessors, Principals and Library-Keepers have little minded the Antiquities of the *Scottish* Nation: It is here to be noticed, that Mr. *Innes*, who made the Discovery, was Almoner to the Queen. He says the most skilful Antiquaries of *France* were assembled in the Royal Abbacy of *St. Germain*s, in the Presence of the chief Nobility of *Scotland*, and that then he produced it. The Names and Designations of the Antiquaries are, *Camillus de Tellier* an Abbot, and the King's Library-Keeper; *Eusebius Renaudet*, the King's Historiographer; *Stephanus Baluzius* Canon of the Church of *Tutelon*, and Professor of the Canon Law; *Honoratus de Cailla*
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Auditor of Accompts; *Nicolaus Clement* Keeper of the King's Library; *John Mabillon* a Presbyter and Benedictin Monk; *Theodoric Ruinart* a Presbyter and Benedictin Monk; and *Rouille de Cawdry* Procurator in the supreme Court of Accompts; all these give their Attestation, and subscribe it: But since this Meeting was called by Mr. *Innes*, and he produced the Charter to them at the Desire of the Court of *St. Germain's*, probably with a certain View, that as *Robert III.* was by that Charter, as they judged, cleared from the Imputation of Bastardy; so the Aspersion and Imputation of the like Nature to one, whom King *James* owned to be his lawful Son might be discredited, I cannot divine, what may be the Reason why Mr. *Innes* himself does not subscribe the Attestation. There is great Reason to think, that this Assembly was a pack'd Meeting, consisting of Papists, ready enough to serve the Interests of a Popish King; for *Mabillon*, one of these Antiquaries, compliments King *James VII.* in the highest Strain, calling him *regum optimus*, the best of Kings: He that could say this, may after it attest the greatest Untruth. But pray, what Attestation do they give? It is, "that they
 " diligently inspected, examined, and sifted it
 " with the utmost Care, that it is ancient and
 " genuine, written in the Character of these
 " Times, and that there is no Suspicion of False-
 " hood, or Suppositiousness about it, sealed with
 " two Seals, ancient and entire:" But this Attestation, tho' it bears that the Charter is genuine, and that there is no Suspicion of Falsehood or Surreptitiousness in it, yet the Grounds they proceed

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ceed upon are not satisfying; they say it is ancient, and written in the Character of these Times; but tho' they publish other two Charters, yet they did not compare the Characters of this, with the Characters of the other two. Again, neither this nor the other two are subscribed by *Robert* and his Son *John*; so that the Comparison of Subscriptions, which is a Mean of knowing a Paper to be genuine, is wanting; the Charter has indeed two Seals appended to it, *Robert's* and *John's*, but *Robert* the Granter, and *John* mentioned as a Witness, and several others mentioned as Witnesses, do not subscribe the Charter. Surely this Attestation of the Antiquaries will not now pass with some Gentlemen, who have the Assurance to assert, that the Letters of *Queen Mary* to *Botbwell*, her long Love-Sonnets, and the Contracts of Marriage with him are fictitious, "tho' the Originals were produced to, and perused by the best Judges, and duly conferred and compared, for the Manner of Writing and Fashion of Orthography in these Times, and with sundry other Letters long since heretofore written, and sent by the Queen of *Scots* to *Queen Elizabeth*." This is contained in the authentick Journals of the Proceedings of the Lords of Privy Council of *England*, with some of the chief of the Nobility called to meet with them at *Hampton-Court*, the 14th and 15th of *December* 1568 (a). A Writing also was produced and subscribed by the Earl of *Murray*, the Earl of *Morton*, the Bishop of *Orkney*, *Patrick Lord Lindsay* and *Dumfermling*, who attest upon their Honours and Consciences, that they understand,

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(a) *Anderj. Coll. Vol. IV. p. 170--174.*

stand, and perfectly know the said Letters to be subscribed by the Queen (a); the Earl of *Morton* having by a Speech declared the Manner how he came to have the little gilt Coffer, with the Letters, Sonnets, and Contracts of Marriage therein found, gave the same in Writing, subscribed with his Hand, to the *English* Commissioners at *Westminster*, and avowed the same, upon his Honour and Oath, to be true (b). If such solemn Attestations are controverted by some modern Infidels in History, can these Gentlemen, or any other Persons depend on the simple Attestation of the *Parisian* Antiquaries, made neither upon the Word of Priests, nor the Honour of Gentlemen, nor upon Conscience, and sacred solemn Oath? In fine, the attesting a Deed to be genuine, barely, because it is writ in the Characters of these Times, is no Proof that it is genuine; it may prove it to be as ancient as the Times, when these Characters were used, but no more: The many Papers containing the Homages paid by our Kings of *Scotland* to those of *England*, are written in the Characters of these Times; and yet Mr. *Anderson* in his *Independency*, Mr. *Ridpath* in his *Preface* to *Craig's Treatise of Homage*, have demonstrated them to be Forgeries. And Mr. *Ruddiman* has, in his *Preface* to Mr. *Anderson's* Book *de re diplomatica*, irrefragably demonstrated, that the Charters produced, for establishing the Homage paid by *Robert I. David II. and Robert II.* were contrived by *Harding*, an egregious Imposture.

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(a) *Andersf. Coll. Vol. III. p. 239, 260.*

(b) *Coll. Vol. IV. p. 164.*

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The *Parisian* Prefator says, "That the chief
 " Men of the *Scottish* Nobility did see the Char-
 " ter, examine it with Attention, and sift it, and
 " judged that there was not the least Ground for
 " suspecting its Genuineness, that they knew the
 " ancient Writing, the intire Seals, the Cha-
 " racters, the Language of the Age, and the
 " most common Custom of granting Dispen-
 " sations, imposed upon them that sought Dispen-
 " sations:" But the Prefator exceeds all Bounds
 in this Representation; for, tho' the chief of the
 Nobility, as he calls them, and others too of no
 such high Rank, declare that they were present
 at the Inspection and Examination of the Char-
 ter, that they saw it, and found it entire, yet
 they do not declare it to be genuine, nor that
 they did examine it with Attention; but they
 take all upon Trust, and the Faith, or rather the
 Word of the Antiquaries: To shew this, I have
 given their own Words a Place in the Margin (a);
 so that the Charter might be a Forgery for all
 that they knew about it; they take it upon im-
 plicite Faith, because the Antiquaries said to
 them it is genuine, as they had taken up the
 Popish Religion, (a few of them being excepted)
 which allows not Laicks to judge for themselves,
 and requires them to believe, as their Church be-
 lieves: But supposing that they had attested it to
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(a) *Et nos Comites, Barones et alii Regis Magna Britan-
 nia subditi infra scripti, presentes fuimus, dum predicta,
 charta inspiceretur et examinaretur a supra scriptis viris
 eruditissimis, et rerum antiquarum peritissimis, eandemque
 nos pariter vidimus, et integram reperimus, in quorum fi-
 dem, has presentes literas, chirographis et sigillis nostris
 firmavimus.*

be genuine, this cannot go far; for they who could renounce their Religion, and become *Roman* Catholicks, could make such a Stretch as this, especially when it is considered, that their Attestation is not upon Honour, or Conscience, or on Oath: Besides, some of them were disobliged, because King *William* did not prefer them to Posts of Honour and Profit, as they thought they had merited at his Hand. But how could they attest, that they found it entire, when the Witnesses do not subscribe it? The Prefator calls them the chief Men of the *Scottish* Nobility; but that they were not all of this high Rank, I shall set their Names down with their Designations; *Charles* Earl of *Middleton*, Secretary of State; *John Drummond*, Earl of *Melford*, Knight of the Garter and Privy Counsellor; *James Seaton*, Earl of *Dumfermling*; *James* Earl of *Drummond*, eldest Son of the Earl of *Perth*, Chancellor of *Scotland*; *James Galloway* Viscount of *Dunkeld*; *William Gordon*, Lord *Kenmure*, eldest Son to the Viscount of *Kenmure*; *Charles Fleming* Brother to *John* Earl of *Wigton*; *Alexander Maitland* Brother to *Richard* Earl of *Lauderdale*; *Charles Kinnaird* Brother to Lord *Kinnaird*; *Allan MacDonald* Chief of his Clan; Sir *James Montgomery*, *Walter Innes*, *James Menzies*, *James Malcolm*, *David Lindsay*, *J. Cockburn*, *Charles Edward*, *John Livingston*, *James Murray*, *N. Deans*, *Robert Arbutnot*; the last Ten have no Designations; and whether they were learned Men, as the Publisher calls them, we know not, or if they knew much about ancient Charters: It is remarkable, that two of the best Judges in the Court of *St. Germain's* were not at this Meeting; the

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the Earls of *Perth* and *Lauderdale*, and none of the *English* Nobility and Barons, it seems, were called to it.

In the preceeding Pages I have made a Reply to the Arguments of the *Parisian* Antiquaries, the Earl of *Cromarty* and Sir *George MacKenzie*, in Favour of the *Parisian* Charter, and to many Things advanced by them against our Historians, for *Elisabeth Muir* her being *Robert's* first Wife, and for *Euphemia Ross* being his second Wife: But because the Earl of *Cromarty* is first of all referred to by Mr. *Ruddiman*, I shall take under my Review the Documents adduced by this noble Lord. The Earl (a) mentions no fewer than eight or nine Charters, which *Robert* had granted to those who had married his Daughters: These are not adduced to vindicate *Robert III.* from the Imputation of Bastardy, but to shew, that our Historians were ill acquainted with the State of the King's Children, who say he had but one Daughter by *Euphemia Ross*, and two by *Elisabeth Muir*; and consequently that their Accounts of *Robert's* Wives and Children, are not to be relied on: But I ask, who of our Historians say he had no more? They relate the Truth, when they speak of three; but does it follow, that because they speak of no other Daughters, that they either thought or said that he had no more? The Earl himself does not mend this Fault: For there were several Children *Robert* had by other Women, than *Elisabeth* and *Euphemia*, of whom the Earl says nothing. *George Crawford* (b) has preserved their Names, Sir *John Stewart* Sheriff of *Bute*, Sir *John Stewart*

(a) *Vind.* p. 31, 32, 33. (b) *Hist. Stewart*, p. 19.

Stewart of Dundonald, and *Thomas Archdeacon of St. Andrews*, &c. but because of this, I shall not charge him as ill acquainted with our History.

The Earl (a) charges our Historiographers with Falshood and telling a Lie, as to *Robert's* Wives and Children, which Charge he has not made out: But, with all Deference to his Lordship, I can charge his Lordship with relating Things contrary to Fact, but not with lying, because I am persuaded he knew not better. His Lordship says, in his Preface to the historical Account of the Conspiracies of the Earl of *Gowrie* and *Logan of Restalrig* (b), "That the malicious Designers against the Royal Family of *Scotland* did at first invent, and then foment a most improbable Falshood, making it their Business to suggest, that *Gowrie* and his Brother did never conspire against the King, but that the King did murder them both; this was invented and clandestinely propagated by *Bruce*, *Rollock*, *Dury*, *Melvil*, and other Presbyterian Ministers." This is a heavy Charge against, and a sad Character he gives of eminent Ministers of Jesus Christ: But Mr. *Anderson* (c) has fully shewed his Lordship's Mistake, to give it no worse Word. Mr. *Rollock* was dead and rotten in his Grave, before the Conspiracy, which fell out *August* 5th, 1600, but *Rollock* died *February* 1598. *Clark*, in his *Lives*, relates this, so do *Melchior Adam* in his *Lives of foreign Divines*, and *Calderwood* in his *MSS. History*; and if these will not be believed, *Spotiswood* says the same Thing (d). As to Mr. *Dury*, *Spotiswood* (e) in-

(a) *Vind.* p. 74, 75. (b) *Pref.* p. 8, 9. (c) *Defence against Rhind*, p. 317---320. (d) *Hist.* p. 454. (e) p. 457.

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informs us, that he died the last Day of *February* 1600, i. e. five Months and five Days before the Conspiracy. As for Mr. *Melvil*, his Lordship gives no Voucher; and *Spotiswood* (a) writes of Mr. *Bruce*, that he would reverence his Majesty's Report of that Matter, but could not say, he was persuaded of the Truth of it, for which he was banished the King's Dominions.

The Earl (b) mentions five Charters granted in the first Year of *Robert's* Reign, in which *John* is called *Earl of Carrick*, and his eldest Son, and in three of these he is called *his Heir*: But the Sense in which this is to be understood, I have shewed in my Reply to the fifth Argument of the Antiquaries.

From p. 35-----44, he gives us a long Act of Parliament, which he is at the Pains to translate from *Latin* into *English*; but I have shewed, p. 121--123. that this is sufficient by itself to overthrow all that he and the Antiquaries have advanced for the Legitimacy of *Robert III.*

In p. 44. he mentions a Charter confirming a Mortification to *Roginaldus Muir*, in which *John* is called *Robert's* first begotten and Heir: But the Earl owns it wants a Date, and so must merit no Regard.

In p. 45, the Earl gives another Charter, dated *anno 1361*, wherein he says *John* is styled *Lord of Kyle*, and *Robert's* first begotten: But it mentions neither Day nor Month. See my Remarks on Charter dated *anno 1364.*

In p. 46----49. the Earl inserts a Charter of *Robert*, when Steward of *Scotland*, wherein his Son *John*

John is designed his First-begotten and Heir, and Lord of the Barony of *Kyle*, recorded in the Register of *Paisly*, February 13. 1328. But I am amazed that the Earl makes Use of it: For, besides that it has no Date, *Robert* himself, according to the *Parisian* Antiquaries, was born anno 1315, and according to Mr. *Sage*, anno 1316. Now is it to be supposed, that *Robert* granted Charters when he was only thirteen or fourteen Years of Age. Again, supposing that he was born anno 1315 or 1316, we must suppose, that at that Time he had a Son, even this *John*; for he joins with *Robert* in granting this Charter, when he was not a Year or two old. Do not these Things expose this Charter as a gross Forgery, and give Ground to suspect, that the rest produced in this Cause are no better? If it is said, that the Clerk or Recorder has blundered, by recording it in the Register *ad annum* 1328, this, with the want of a Date, was sufficient Ground for the Earl to make no Use of it. I am told, that, about the Time of making so great a Stir for the Legitimacy of *Robert* III. Persons were sought out, who could exactly imitate the old Characters, and Manner of Orthography in those Times; and it is certain, that it is an easy Matter to date them, as People please, who have a Design to impose. The Earl speaks of Scores of Charters at his Command, without acquainting us where they are repositied.

In p. 49, 50. the Earl gives us a Charter dated July 20. 1361, wherein *John* is a Witness, and is stiled Lord of *Kyle*, and designed *Robert*'s first begotten Son. This must be rejected because of my Remarks on Charter 1364.

In p. 50, 51. the Charter mentioned is to be cast, as having no Date; and likewise that in p. 52, which is not set down *ad longum*: He gives it no Date; for it seems it had none: And tho' he says, that *John* is mentioned in it, yet he has no Title, either Lord *Kyle*, or Earl of *Carrick*.

The Charter of King *David*, inserted from p. 53----57, wanting a Date, is not probative.

From p. 60----63, the Earl gives the famous *Parisian* Charter, dated *anno 1364*: But I have already condescended on many Nullities in it, which will make it, in the Judgment of all unprejudiced Persons, justly to be a Forgery.

In p. 67, we have a Charter of *Robert* after he was King, calling Sir *Adam Muir* his Kinsman, with the Earl's Reasonings upon it, which I have fully answered p. 103.

And now, having gone through all the Charters adduced by the Earl, and shewn their Insufficiency, I shall next, because Mr. *Ruddiman* remits us to Mr. *Sage*, his Introduction to *Hauthorn-den's* History, consider what the said Mr. *Sage* has advanced, to shew the Account of our Historians as to *Robert's* Wives and Children, to be a Fiction. Mr. *Sage* makes the following Profession; "I am not, *says he*, to produce new Evidences; all I am to do is to lay together, and "to reduce to one View, these which others "have produced." It seems that he did not inspect and examine them; but he takes them all upon Trust and implicate Faith, as he does many ill-grounded Reports against *Buchanan* and Mr. *Alexander Henderson*, both justly esteemed in *England* and *Scotland*, as Persons of great Worth:

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His retailing Falshoods of both, I am ready upon Demand to make out.

To supply the Defect of Mr. Sage, his not inspecting and reviewing the Documents and Vouchers, which he says, he has laid together, there is an anonymous Annotator who says (a), "That Mr. Sage, not having Leisure or Opportunity to see the publick Records of the Kingdom, was necessarily obliged to found all his Arguments and Inferences upon our Histories, and the Charters mentioned by the Earl of Cromarty and Mr. Rymer: But before the Introduction was published, Care has been taken to consult these Records, which not only confirm what the Author has advanced, but set these Matters in a much clearer Light." But as I did not know, who this Annotator was, nor does he acquaint us who has taken this Care, so both being nameless, I did not in the least regard his Testimony or Attestation: But when I was writing over this Part of my Performance, I went to the Library of the College of Edinburgh, and called for a Sight of Mr. Anderson's *Diplomata*, I minded that I had read some time ago Mr. Ruddiman's curious Preface to that Collection of Charters; from which I discovered that Mr. Ruddiman was the Annotator: For he says, Foot Margin, p. 43. *Videri hic possunt, quæ ante multos annos, a nobis tum ad marginem prædictæ præfationis Sagiana, p. 36. sunt annotata.* But Mr. Ruddiman needs very much to explain himself, when he says, that Mr. Sage has founded his Arguments upon our Histories; for Mr. Sage himself owns, that all

(a) *Introd. p. 36.*

our Historians, *Fordun*, *Boetbius*, *Lefly*, *Buchanan* and *Hautbornden*, agree, that *Robert III.* was a Bastard, *John Major* only being excepted. And *Mr. Ruddiman* likeways owns this in the Passage I have already quoted, saying, That may be, *John Major* may be excepted. *Mr. Ruddiman* then is put to it, to condescend on these Historians upon whose Histories *Mr. Sage* has founded his Arguments. I know nothing can be said in Defence of him, whom I greatly esteem, but that here, in his Keeness for the Cause he had undertaken to defend, he had forgot what he had written in his Annotations on *Buchanan's History*. And as for the Charters, upon which *Mr. Sage* did found his Arguments and Inferences, I have shewed, that both the *French* and *Scottish* Charters mentioned by the *Parisian Antiquaries*, *Sir George MacKenzie*, and the *Earl of Cromarty*, do not clear *Robert III.* from the Imputation of Bastardy. I now proceed to consider these Charters, which *Mr. Sage* has laid together, from a Letter of *Mr. Rymer* the *English Historian*, to *Dr. Nicolson Bishop of Carlisle*, anno 1702. The Bishop, in his *Scots historical Library*, speaking of *Robert II.* says, " That one of the main Occurrences of this " King's Life has been vilely represented by the " best Historians of *Scotland*, who generally re- " port, that *Elisabeth Muir* was only his Concu- " bine when she bare her Son *John*, (afterwards " King by the Name of *Robert III.*) who was " legitimated after his Father's Accession to the " Throne, and preferred to the lawful Issue of " his rightful Queen *Euphemia*." And afterwards,
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speaking of the *Parisian* Charter, and other Instruments, says, in a most rude Manner, *That they afford as manifest a Confutation of George Buchanan's impudent Suggestion, as can be wisht for.* Thus he makes our Historians, and the best of them, in the Lump, to have been guilty of a vile Aspersiō, and *George Buchanan* of an impudent Suggestion, as if he had been the first or the only Person, that had told it. But our best Historians can be compared with the best *English* Historians, for Veracity, Probity and Learning, at any time; and why the Bishop singles out *George Buchanan* for Impudence, since they all to a Man wrote the same Thing, I cannot understand. Now, to confirm what the Bishop had wrote, as above, Mr. *Rymer*, without sending his Letter to the Bishop in writing, published it in Print, wherein he expresseth his great Concern to have *Robert III.* vindicated from the Imputation of Bastardy; “ For this, *says he (a)*, is to vindicate the Royal “ Line, and all hereditary crowned Heads in “ *Europe* in their Descent from him; and *says*, “ that the publick Transactions between *England* “ and *Scotland*, in the Tower of *London*, and the “ Archives of *Westminster*, concur with the Records “ cited by my Lord *Tarbot*, to beat down that “ notorious Falsehood and Scandal, which has so “ long obtained upon the Credit of *John Major*, “ *Boethius*, *Lestly*, *Buchanan* and *Holinshed*, and “ the rest.” It would seem, that Mr. *Rymer* knew nothing of what is asserted by Mr. *Ruddiman*, concerning one *Russel*, the Continuator of *Fordun's* History, as the Contriver of the alledged False-

(a) Letter, p 3.

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Falsehood, since he mentions *Major* as the first Publisher of it; especially since Mr. *Ruddiman* says, that perhaps *Major* might be excepted; nay, he differs from Mr. *Sage*, who fiercely contended against Sir *James Dalrymple*, that *Major* does not impute Bastardy to *Robert III.* Tho' Mr. *Sage* brings his *English* Authorities from Mr. *Rymer's* Letter; yet Mr. *Rymer* does not escape a severe Censure from him: He says (a), "That he was not thoroughly acquainted with the true Account of *Elisabeth's* Children--that he did not weigh Things as he ought to have weighed them:" And tho' he derogates greatly from Mr. *Rymer's* Reputation, yet he makes use of his Authority to expose our Historians.

Mr. *Rymer* does not seem to be impartial; for he treats our Historians with Ridicule, and plays his Wit upon them: He says, (b), "That, according to them, in the Space of Time from the Death of *David*, to the Coronation of *Robert, Giffard*, the Husband of *Elisabeth Muir*, must die, to leave a Vacancy for a new Husband; and Queen *Eufemia* must die to make Way, that the King may at last in good Time be wedded to his old original Mistress, *Elisabeth Muir*; this Contrivance might pass in a Tragedy or Comedy, or such dramatick Invention, for a convenient Fable, but that it should be current in the World, so long amongst our Books of Histories without Examination, seems a Reproach to both Nations." Here I must observe, that the pretended Fable was not kept as a Secret for many Years, as the
Charter

(a) *Introd.* p. 38. (b) *Lett.* p. 10.

Charter anno 1364, till a proper Time of producing it, when King *James* and his Court were at *St. Germain's*; but it passed with *Fordun's* History very soon, thro' several Monasteries, after the writing of it, and was never challenged by any; probably, because no body could divine, what could move any to contrive such a *scandalum magnatum*; the Publisher of it at first, and these who did transcribe it from him, cannot be supposed to have had any Turn to serve, or to bring Gain to themselves thereby; but rather were in Danger of being punished for publishing and propagating a notorious Falshood on the Royal Line, if it was one.

Mr. *Rymer* makes our Historians to have been credulous, and to have been easily imposed upon; but Mr. *Ridpath*, in his *Preface* to a *Treatise upon Homage*, writ by a great Lawyer Mr. *Craig*, gives an Instance of Mr. *Rymer's* Credulousness, even as to undoubted Forgeries, when he published a pretended Form of Homage, said to have been performed to *Edward* the Confessor, by our King *Malcolm* for *Scotland*, and the adjacent Isles, without Examination; for Mr. *Ridpath* hath demonstrated it, beyond the Possibility of a Reply, to be a gross and impudent Forgery. And the Bishop of *Carlisle* himself, in his *Scottish Historical Library*, is so just as to own this: Mr. *Rymer* himself, by this Rant upon our Historians, seems to be abundantly qualified to write Romances and Plays, by the improbable Representation of the Marriage of *Robert* to *Elisabeth Muir*, and a Contrivance of his own; for who is it of our Historians that says, that from the Death of King *David*

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vid to the Coronation of *Robert II.* both *Eufemia* and *Giffard* died? for I know of none. Mr. *Rymer* says (a), "That King *David* was at London in the Month of *June* 1370, and that King *Robert II.* was crowned in the Month of *March* following." And as to the Time of *David's* Death, he writes very inconsistently, when, in p. 5th, he tells us, "That all our Authors narrate, that *David* died at *Edinburgh*, in the 39th of his Reign;" and yet says of *Buchanan*, as if he were none of our Authors, "That he, to be more accurate, writes, that he died, *prope tricesimo nono*, which in *English* is, in the 38th Year of his Reign:" But let any Man shew me, for Mr. *Rymer*, who of our Historians assert, that *Eufemia* and *Giffard* died in the Time that intervened betwixt *David's* Death at *Edinburgh*, and the Coronation of *Robert*, as he has stated the Dates of both. *Buchanan* is one of our Historians, and writes, that *Eufemia* died the 3d Year of *Robert's* Reign (b); and is it a Matter of such absolute Improbability, that *Giffard* should die much about the Time of *Eufemia's* Death? It is no Manner of Reproach to both Nations, that the Account and Narration of our Historians did pass so long current, for so long a Time; for no Person, it seems, was able to disprove it, tho' it was very well known. Sir *George Mackenzie* acquaints us, that Sir *Lewis Stewart*, in the Reign of King *Charles I.* wrote something in *Latin* upon it; but the Earl of *Cromarty* says, that he was ill founded: Besides, it never was published by him, when

(a) *Lett.* p. 10.

(b) *Hist.* p. 168. anno tertio ab inito regno.

when alive ; nor did my Lord *Pitmeddin* who had it, as Sir *George* acquaints us, tho' it did tend to vindicate the Royal Line ; they were sensible that all they could advance was not sufficient to confront so many learned Historians, that had Occasion to know the Antiquities of our Nation. And now, tho' at last Sir *George Mackenzie*, the Earl of *Cromarty*, the *Parisian* Antiquaries, and the *Cyprianick* Doctor, Mr. *Sage*, have laboured this Argument with all their Skill and Might, they have rather perplexed the Story, than cleared up the Truth, by Charters that overthrow themselves, and the prime Managers are at Loggerheads with each other, being dissatisfied with their respective Managements of the Debate, and confuting one another more than they do *Fordun*, *Major*, *Boece*, *Lesly* and *Buchanan*. And after all they have said, it appears that they have been Tools, serving an Artifice of State.

Tho' Mr. *Rymer* is concerned to wipe off the Aspersions cast on the Royal Line, as he calls it, yet he sets out (a), by lessening the Fabulousness of the Narration given by our Historians by what follows ; “ In these Days the Word *Bastard* was
 “ not such a Bug-bear, but passed current in all
 “ Nations amongst Persons of the first Quality
 “ of that Time : There is a Record in the Tower,
 “ *De duello inter bastardum Franciæ et Joannem Vis-*
 “ *cont. Rot. Par. 44. E. 3. p. 3. M. 14.*” And yet it seems to have been a Bug-bear to him, that the Royal Line and the crowned Heads in *Europe* should ly under this Imputation : But being the King's Historiographer, it seems he thought he had

had a Call to appear in Print, for the Honour of the Royal Line. Mr. Rymer is not far mistaken, in saying, That the Name *Bastard*, in those Days, was no Bug-bear: I have already noticed, that *Gillus* and *Duncan*, *Scottish* Kings, were both Bastards; and, in *England*, *William* the Conqueror was a Bastard, and consequently, according to Mr. Rymer's Reasoning, all crown'd Heads, that descended from him, must ly under the Infamy, as much as those who descended from *Robert III.* But not to go so far back, *Henry VII.* King of *England* was a Bastard, whose Daughter was married to *James IV.* King of *Scotland*; so that a Stain must ly upon all the Kings and Queens of *Scotland* and *England* that descended from him, as well as on those that came of *Robert III.* But tho' he was a Bastard, yet, at his meeting with his first Parliament, he told them, that his Accession to the Crown was as well by just Inheritance, as by GOD's just Judgment, in giving him Victory over his Enemies in the Field. And the Parliament declared their Hopes, that he might be to the Pleasure of Almighty GOD, the Wealth, Prosperity and Security of the Realm, to settle the Crown upon him, and the Heirs of his Body, exclusive of all others; nay, by an Act of his 3d Parliament, they call him *natural Liege Lord*. See *Atwood's Superiority*, p. 469--473. and *Duncan II.* King of *Scotland*, tho' a Bastard, yet affirmed, that it was evident that he is the hereditary King of *Scots*. See Mr. *Ruddiman's Annot.* p. 422. *Coll. 1.* The best and most learned Lawyers are of Opinion, that the Stain of Blood, in the Cases of Bastardy and Forfeiture, ceases,

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when one succeeds to a Crown: Tho' *Elisabeth* Queen of *England* had been by her Father and the Parliament declared illegitimate; yet when she succeeded to the Crown, she made no Interest to have the Illegitimacy taken off by a Parliamentary Deed, which she could have procured with great Unanimity, but she rather declined to attempt it. *Sidney on Government* relates (a), "That
 " in *Spain*, during the Reign of the *Goths*, the
 " eldest Male succeeded, whether legitimate or
 " illegitimate." Now *Robert III.* before his Father was King, tho' a Bastard, might be called in Writs *Robert II's* Son, his first born, and his Heir to any private personal Estate he had, when a Subject: But being a Bastard, when his Father came to be King, he was not Heir to the Crown, till the Parliament by this Act declared, *That he shall be, and ought to be his true and lawful Heir*, (which he was never called before this) and after his Death succeed him in the Kingdom. Again, this great Noise made against our Historians, because of the Narration of the Bastardy of *Robert III.* was not really because of an Asperision it threw upon the Royal Line, but to keep out the Duke of *Monmouth* from the Succession, who seemed to bid fair for it, when a Bill of Exclusion was so strongly pressed to be past against the Duke of *York*, because he was a Papist. It was about this Time that Sir *George Mackenzie* and the Earl of *Cromarty* wrote against our Historians, and were the first that avowedly controverted the Narration given by our Historians, which is a shreud Presumption, they were serving a State-Artifice.

Tho'

(a) P. 301.

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Tho' Mr. *Rymer* looks on the Narration of our Historians, concerning the Wives and Children of *Robert II.* to be a *Romantick* Invention, yet he finds it necessary, to shew some Manner of Regard to such eminently learned Historians, Men of great Character and Reputation in the learned World, who could not be suspected of having a Turn to serve thereby, to make no less than two Conjectures, concerning what might be the Occasion of their stumbling into this alledged Falshood and Scandal: One of them I have already mentioned, and shown Mr. *Sage's* great Displeasure with it. The other is (a), "That amongst the Prisoners of Note taken with King *David* at the Battle of *Durham*, I find, says he, *Alexander Steward*, *John Steward* of *Dalswinton*, and *John Steward* Bastard. Perhaps some Writers, an hundred Years after, about to patch up a Story, meeting with that Act of Recognition, upon *Robert's* coming to the Crown, whereby it is declared, that his eldest Son *John* Earl of *Carrick* and *Steward* of *Scotland*, was and ought to be his true and lawful Heir and Successor, &c. took *John Steward* the Bastard, and this *John*, Son of *Robert*, to be the same Person, and so made Way for *John Major*, *Boethius* and their Followers, to dress it up, with the other Circumstances, into a compleat, inconsistent, absurd Jumble of a Tale of a Tub, as we find it." Mr. *Sage* makes the following Animadversion on this Conjecture (b), "That here perhaps is bare Possibility; was that supposed Writer at Pains to search the Records in the Tower, or at *West-*
" *minster*,

“ *minster*, that he might find out a Bastard, called
 “ *John Stewart*, taken Prisoner at the Battle of
 “ *Durham*.” This is but a poor Evasion of our
Cyprianick Doctor; for if it is certain, that *John*
Stewart is called a Bastard in these Archives, as
 Mr. *Rymer* insinuates, this he thought to be a
 good Ground for his Conjecture; Whether the
 supposed Writer was at Pains to consult the Ar-
 chives, I know not; but Mr. *Ruddiman* owns that
 Mr. *Sage* did it not, and says he supplied this
 Defect. The true Answer to this Conjecture
 made by Mr. *Rymer* is, That he hath patcht up
 an absurd Jumble of a Conjecture and Tale of a
 Tub, by committing a manifest Violence upon
 the foresaid Act of Recognition, when *Robert*
 came to the Throne, by making it to declare,
 that *Robert's* eldest Son, Earl of *Carrick* and
 Steward of *Scotland*, was and ought to be his true
lawful Heir and Successor; for the Act declares
 no such Thing, as that *John* was *Robert's* true
lawful Heir, before the said *Robert's* coming to
 the Throne; I shall set down the Words in *Latin*
 at the Foot of the Page (a); in *English* they are,
 “ The King willing, after the Custom and Ex-
 “ ample

(a) *Rex volens more et exemplo celebris memoria ejusdem
 boni regis Roberti avi sui, coram clero et populo successorem
 et verum heredem suum declarare---ex abundanti et un-
 animi consensu et assensu dictorum prelatorum, comitum,
 procerum et magnatum---recognovit, declaravit, et voluit,
 quod cum ipsum contigerit, pro dispositione divina, ab hac
 luce migrare, dominus Joannes primogenitus filius suus,
 comes de Carrick et Senescallus Scotia, erit et esse debet ve-
 rus legitimus haeres suus, ac sibi post mortem suam in reg-
 no Scotia, domino disponente, succedet et succedere debet,
 post eum sedebit et sedere debebit super solium regni sui.*

“ ample of good King *Robert* his Grandfather, of
 “ famous Memory, to declare before the Clergy
 “ and the People his Successor and true Heir, he,
 “ with the full and unanimous Consent and As-
 “ sent of the Prelates, Earls, Nobles and great
 “ Men, acknowledged, declared, and willed, that
 “ when it should happen by the divine Disposall,
 “ he should depart this Life, Lord *John* his first
 “ begotten Son, Earl of *Carrick* and Steward of
 “ *Scotland*, shall be (*erit*, and not *erat*, as Mr.
 “ *Rymer* perverts the Act) and ought to be his
 “ true lawful Heir, and shall and ought to suc-
 “ ceed him in the Kingdom of *Scotland*, and af-
 “ ter him shall sit, and ought to sit upon the
 “ Throne of his Kingdom.” Thus we see, that
 the laborious Historiographer, to impose upon the
 World, makes the Act to declare what he would
 have it to declare. Our Historians say there was
 another Act, much to the same Purpose, which Mr.
Atwood says (a), Sir *George MacKenzie*, in his Right
 of Succession, promised to insert Word for Word,
 at the End of that Treatise; wherein he says,
 that *John* is called his eldest Son by *his first Mar-*
riage; but instead of inserting the Act, he gives
 us no more, says Mr. *Atwood*, than the following
 Postscript; “ In regard there is, p. 194, 195,
 “ Mention made of an Act of Parliament de-
 “ termining the Succession of *Robert II*’s Chil-
 “ dren, and referred to here; upon further Con-
 “ sideration the Author has thought fit to defer
 “ the printing of it till another Time.” But
 this Piece of Management affords great Ground
 of Suspicion, that this Act contains something
 that

(a) *Pref. Coll.* p. 34, 35.

that Sir George is not willing should be known: And I know not if he published it in Print at any other Time. Here I must own, that in the Edition which I have of Sir George's *Jus regium*, anno 1684, there is no such Postscript. And I have been at the Pains to consult that Edition of it, which we have in his Works, in two Folios; but in it I find no such Postscript. Further, I think it strange, that in the Edition which I have of his *Jus regium*, there is an Addition consisting of sixteen Pages, where it is said, p. 1. what follows is immediately to be subjoined to the Testimony of Calvin, p. 90; but this large Addition is by the Publisher of his Works in two Folios left out; what is the Cause of this Manufacture, I cannot divine. It would seem that there is another Edition of the *Jus regium*, which Mr. Atwood has seen, that contains the foresaid Postscript; but after all the Search I have made for it, I cannot fall upon it. Sir James Dalrymple (a) owns, that there was such an Act of Parliament: His Words are these, "There is a second Act of
 " Succession in the 3d Year of that King's Reign,
 " which doth not only declare John to be Heir
 " of the Crown; but after him failing Heirs-
 " male, Robert Earl of Fife and Monteith; and
 " he failing in like Manner, Alexander Stewart
 " of Badzenoch, afterwards Earl of Buchan; all
 " designed Sons of the first Marriage: And they
 " also failing, to David Earl of Strathern; and,
 " in like Manner, after him, to Walter Stewart,
 " afterwards Earl of Athol, Sons of the second
 " Marriage; and failing of all the Heirs-male,

" veri

(a) Pref. p. 34.

“ *veri et legitimi hæredes de sanguine et parentela regali.*” Thus Sir *James* gives, as he pretends, the Substance of the Act, and says, that Mr. *Atwood* may have had more of it *verbatim*; but he ought to have given a true Copy of it, since *Atwood* had complained, that Sir *George MacKenzie* had not performed his Promise of giving the whole, but only gave a Postscript, wherein he defers the printing of it till another Time: It is strange that Sir *James* defers it also. One Part of his Account of it makes for the Credit of our Historians, viz. that which declares *John* to be *Heir of the Crown*; for though he is often before the Year 1371, called *Robert's* Heir, yet never Heir of the Crown. There is another Part of this Act, as Sir *James* represents it, which makes against our Historians; for he says, “ That in the Act *John*, “ *Robert* and *Alexander*, are all designed Sons of “ the first Marriage:” This is very direct against our Historians, who assert, that *Robert* was first married to *Euphemia Ross*. Now, if this be said in the Act, it militates greatly against our Historians, if so be that such an Act is extant: It ought therefore to have been published, that it might be taken under the Review and Examination of good and competent Judges: But I apprehend, from the Management of Sir *George* and Sir *James*, that it will not stand the Test. Mr. *Rymer* in the above cited Passage, puts *John Major* in the Front of our Historians, who narrate the Bastardy of *Robert III.* but it seems he knew not what is asserted by Mr. *Ruddiman*, that *Fordun*, or his Continuator *Russel*, was the Forger or Contriver of the whole Story: I shall therefore set down
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the Passage as it is in Latin (a); the English of which is as follows, "In the Year 1390, Robert II. King of Scotland, died, on the 13th of the Calends of May, at his Castle of Dundonald, and reigned nineteen Years and twenty-three Days. He lived seventy-four Years, was seven Years younger than his Uncle David; that King Robert of Lady Elisabeth Muir, Daughter of Sir (Dominus) Adam Muir, begat three Sons, to wit, John who was afterwards King, and Robert Duke of Albany, and Alexander Earl of Buchan, who was commonly called the Wolf of Badzenoch. After this he married Eupheme, Daughter of Hugh Earl of Ross, of whom he begat Walter Earl of Athol and Lord Brechin, and David Earl of Strathern; but Eupheme being dead, he married the Lady Elisabeth, and so by virtue of the second Marriage interveening, the said Persons were legitimated, to wit, John, Robert and Alexander, because, according to the Canons, the Marriage following legitimates the Sons born before the Marriage." From this

(a) Lib. 14. cap. ult. anno 1390, Robertus II. Scotia Rex occubuit --- Robertus de domina Elizabeth; filia domini Adami Mure, genuit tres filios, scil. Joannem, qui postea fuit Rex, et Robertum ducem Albanie, et pramissum Alexandrum comitem Buchania, qui vulgariter dicebatur lupus de Badzenoch. Dehinc desponsavit dominam Eufemiam filiam Hugonis comitis Rossensis, de qua genuit, Valterum comitem Atholia, dominum de Brechin, et David comitem de Stratherne, sed mortua Eufemia regina, desponsavit pramissam dominam Elisabeth, et sic virtute supervenientis matrimonii secundarum nuptiarum legitimated sunt dicti fratres, Joannes, scil. et Robertus et Alexander, quia, secundum canones, matrimonium sequens, legitimat filios, ante matrimonium natos.

this it appears, the Charge of Mr. *Rymer* against *Buchanan*, as being guilty of an impudent Suggestion, is most false, and intirely groundless. Mr. *Rymer* observes (a), “ That from the Time that
 “ *David Bruce* was taken Prisoner in the Battle
 “ at *Durham*, *October* 17th, 1346, to his Death,
 “ anno 1370, the two Nations were continually
 “ in Treaty, first in order to the Releasement of
 “ King *David*, and afterwards about adjusting
 “ the several Payments for his Ransom; in which
 “ Course of Time *John*, on whom the whole Con-
 “ troversy turns, was in a Manner always in View,
 “ one while in *England* as an Hostage, and other
 “ whiles in Obligations, Commissions, and other
 “ publick Transactions betwixt the two King-
 “ doms, and always passed in both Nations in
 “ all publick Acts of State, for the first-begot-
 “ ten Son and Heir of *Robert* the Steward of
 “ *Scotland*, and accordingly had his Rank before
 “ the other Princes of the Blood.” The Evi-
 dence that Mr. *Rymer* brings for this, is, the Truce
 of fourteen Years concluded at *London* in *June*
 1369, which he published both in *French* and
English (b). Here I must observe, that in the
 Treaty, as Mr. *Rymer* gives it in *French*, it is da-
 ted *June* 3d, 1369; but in his *English* Copy it
 is said in the Title, that it is concluded at *Lon-*
don in the Month of *May*, (without naming the
 Day) under the Seals of diverse *Scottish* Lords;
 but at the End it is said, “ Concluded and deli-
 “ vered under the Seals of the Prelates and Lords
 “ of *Scotland* aforesaid, at the City of *London*, in
 “ the Month of *June*, (without naming the Day)
 U “ and

“ and in the Year of Grace 1369.” If these Differences are in the Originals from which Mr. Rymer took them, they shew, that they are not much to be relied on: But if they are not, Mr. Rymer the Transcriber is faulty. Further, these Copies do not shew, that *John*, *Robert II's* Son, had his Rank before the other Princes of the Blood; for Mr. Rymer himself expressly says (a), “ That after the Bishops, *Thomas de Mar*, *George de la Marche*, *William de Douglas*, are named; “ and after these also *John Seneschal de Carrick* is “ named;” and I find that this Order is observed in their Subscriptions.

Mr. Sage observes (b), that Mr. Rymer has produced many bright and demonstrative Proofs of *Elisabeth's* having been *Robert's* first Wife, particularly this Truce of fourteen Years: But this is a notorious Falshood; for in the two Copies there is not the least Mention made of her. Mr. Sage would have his Readers to believe, that the other three Documents he quotes in p. 37, bear, that *Elisabeth* was *Robert's* first Wife; but she is not so much as mentioned in them.

In the above Truce *John* is indeed called *Earl of Carrick*; and also Mr. Rymer (c) asserts, that in the Tower amongst others, that have a safe Conduct, is recorded *Joannes Steward comes de Carrick*, Rot. Scot. 43. E. 3. M. 4. but then being without a Date, it is not probative. Mr. Sage observes, that in these *John* is twice over called *Earl of Carrick* before his Father was King, and much longer before *Eupheme's* Death: But if one of them is without a Date, how can he know whether it

was

(a) Let. p. 4. (b) Introd. p. 37. (c) Let. p. 4.

was for a long or a short Time before the Death of *Euphemia*? This is remarked by Mr. *Sage* to confute Mr. *Buchanan's* Assertion, that *Robert* heaped Honours and Riches upon his Children after his Marriage with *Elisabeth*: But Mr. *Buchanan*, as to conferring of Honours upon his Sons, speaks with great Caution. His Words are, *Ut a multis traditur*, i. e. as it is reported by many.

Mr. *Rymer* in his Letter gives his *English* Evidences very confusedly, observing no Order of Time: I shall therefore endeavour to put them in the Order of Time, that we may discover if there is any thing of Moment in them, which discredits the Narration of our Historians concerning the Bastardy of *Robert III.* He observes, that there were several Treaties, which did not take Effect, as one at *Berwick* upon *Tweed*, November 12th, 1354; another at *Newcastle* upon *Tyne*, the 13th of *July*, the same Year (still he keeps no Order;) “ In both which, says he, the Son “ and Heir of the Steward of *Scotland*, (not telling his Name) is to be an Hostage for the “ Security of the second Payment;” which to me appears to be pretty strange, when he owns, that in these Treaties he is not named among the twenty Hostages; for these were all that were demanded: But what is still strange, Mr. *Rymer* (a) acquaints us, that on the 24th of *June*, 1358, which is four Years after the said Treaties, was the first Payment of the 10000 Merks.

Mr. *Rymer* (b) alledges, that on the 3d of *October*, 1357, all the Articles of the great Treaty for the Deliverance of *David Bruce* were signed, and

and twenty Hostages were delivered for the Security of the several Payments of his Ransom, and that *John Stewart*, Son and Heir of *Monf. Robert Stewart of Scotland*, is the first of the twenty; but in this Document he is not stiled the Earl of *Carrick*, though it is dated *October 3d, 1357*. And *Mr. Rymer* acknowledgeth (a), "That he cannot determine the Time when *John* was first advanced to the Dignity of an Earl." This shews, by the bye, what Ground *Buchanan* had to speak cautiously, (*Ut a multis traditur.*) *Mr. Rymer* adds, "That we never find *John* otherways designed than the first begotten Son and Heir of *Robert* the Steward of Scotland." But he forgets himself; for when he bids us look back to the Year 1358, the safe Conduct is, *Pro Joanne primo genito Senescallo Scotiæ veniendo in Angliam*, without calling him, either *Robert's* Heir or Earl of *Carrick*.

Mr. Rymer furnishes us with *David Bruce's* Obligation, dated at *London* the 4th of *June, 1370*, and the 40th Year of his Reign, for making the first Payment of his Ransom, at the Feast of the Nativity of *John the Baptist*, in the Year of Grace 1371, and gives us the Names of the Hostages (b); the first of them indeed is *John*, Son and Heir of the Steward of *Scotland*, and is deliver'd to the Custody of *Henry de Piercy*; but even in that he has not the Title of the Earl of *Carrick* given him. And in another Instrument concerning the Custody of the said *John*, dated the 8th of *June* at *Westminster* (c), without naming the Year, but it seems to be the same Year, because it refers to the

(a) *Let. p. 5.* (b) *Let. p. 41.* (c) *Let. p. 41.*

(a) *Let.*

the former, in this he is designed *primogenitus et hæres Senescalli Scotiæ*, but not Earl of Carrick: This Instrument he gives at length (a), and another (b), though he is called Son and Heir of the Steward of Scotland, yet he is not designed Earl of Carrick: Thus then it appears there is no Uniformity in the *English* Evidences in designing this *John*; sometimes he is called the Son of the Steward of Scotland, sometimes his Son and Heir, sometimes the Earl of Carrick, and his Son and Heir: From all which, can any thing be learned, but that he was Heir to the private Estate of a Subject, being then the Son of a Subject? And now is it an incredible Thing, that a Subject should declare his Bastard Son to be Heir to his Estate? But then he was never stiled Heir of the Kingdom, nor apparent Heir of the Crown, till his Father succeeded to *David Bruce*, and this was done by Act of Parliament.

I have now given my Remarks on the *English* Evidences in Mr. *Rymer's* Letter to the Bishop of *Carlisle*, to which Mr. *Sage* and Mr. *Ruddiman* had referred, and have also animadverted on several Things relative to this Subject, which Mr. *Rymer* has advanced, but as yet cannot be brought to think, that he has given bright and demonstrative Proofs of *Elizabeth's* having been *Robert's* first Wife, as Mr. *Sage* asserted, *Introd. p. 37.*

I thought once that I had no more to advance against Mr. *Ruddiman*; but finding, that in his Preface to Mr. *Anderson's Diplomata*, he appears as an Advocate for the Legitimacy of *Robert III.* against our Historians, and in support of the Propo-

(a) *Lett. p. 44...47.* (b) *Lett. p. 47...49.*

Proposition he had laid down (a), to wit, "That the Kingdom of *Scotland* descends to the next of Kin immediately, by the hereditary Right of Blood, in the same Manner that Sons acquire the Dominion over the Goods and Estates of their Parents, after their Decease;" so that, according to him, if the King dies, not having a Son, the Kingdom, if there is a Daughter, must descend to her, because of the Proximity of Blood. But this has not been always observed in *Scotland*; I noticed already in this Treatise, that *Caratacus* our King left behind him an only Daughter, who did not succeed him, but his Brother *Corbredus* did; and in the Days of King *Robert Bruce*, the States made an Entail of the Crown at *Air*, that, if the King should die not having a Male-heir of his own Body, his Brother *Edward* should succeed him; by this Means *Marjory*, King *Robert's* Daughter, was excluded. King *James V.* was much inclined to follow this Example; so little Regard had he to Proximity of Blood, that our Historians write, that he intended that *Matthew Stewart*, Earl of *Lennox*, should be his Heir and Successor, in case he should die without Male-Issue: Accordingly, when Tidings were brought him of the Queen's safe Delivery, he lying on his Death-bed, enquired, Whether it was a Male or Female? The Messenger told him it was a fair Daughter. He, in great Discontent, said, *It came with a Lafs, and it will go with a Lafs*; and spoke little after that. It seems he thought that the Earl of *Lennox* had a better Right than the Earl of *Arran*, who afterwards was Regent: And indeed

(a) *Annot. ad Buch. p. 432. Col. 1.*

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indeed *Hamilton* the Abbot of *Paisley*, his Bastard Brother, when he came over to *Scotland* from *France*, finding that his Brother the Regent had sided for the Reformation from Popery, he, to deter him from pursuing that Measure, told him, that if in one Jot, he suffered the Authority of the Pope to be violated, he would be in the utmost Danger, considering, that thereupon only stood the Security of his Right to the Succession of the Crown; for the Divroce of his Father from *Elisabeth Home* his first Wife, would not be found lawful; and so his second Marriage would be judged null, and he declared a Bastard. See *Knox's History* (a).

Mr. *Knox* himself wrote a learned Treatise against Gunarchy, *i. e.* the Government of Women, entituled, *The first Blast*, &c. to which I said already, I never saw a satisfying Reply made. He says, " That Female-Government is contrary
 " to the Laws of Nature, which gives Prudence,
 " Magnanimity and Ability for Government to
 " Men, and deprives Women of these; that
 " the Divine Law has not only taken from them
 " Dominion over a Common-wealth, but a Family, when it expressly subjects them to the Dominion of Men; and as oft as the most High
 " GOD declares, that he is to punish his Enemies with Severity, he threatens to subject them
 " to the Government and Laws of Women, as
 " the greatest of all Evils and Miseries."

As to the Succession of Females to the Crown of *Scotland*, *Bodinus*, one of the most celebrated Writers upon Government, gives the following
 Ac-

Account (a), "The Kingdom of the Britons was,
 " in the Time of *Domitian*, governed by a Wo-
 " man, (for which he cites *Tacitus in vita Agricolaë*)
 " yet for more than 1500 Years, it did not al-
 " low of the Impire of Women, till *Mary* the
 " Sister of *Edward VI.* King of *England*, came to
 " the Administration; about ten Years after *Mary*
 " the Daughter of King *James V.* took the Reins
 " of Government, which were bestowed on an
 " hundred and five Kings before her, Females be-
 " ing laid aside. Nay, King *Bitricus* being carried
 " off by Poison ministred to him by his Wife, the
 " Senate and People of *Scotland* discharged by
 " a perpetual Law, the calling any of their
 " Wives by the Dignity or Name of Queen."
 Now if a Kingdom, as that Word imports Au-
 thority and Dominion over Men, cannot, for the
 Reasons above mentioned, pass unto Women,
 then, when the reigning Prince dies without a Son,
 the Daughter cannot inherit or succeed; and so
 Mr. *Ruddiman's* Proximity of Blood, in the sup-
 posed Case, cannot or ought not to take Place,
 but the next Male should succeed. I know that
 those who maintain the contrary Opinion, en-
 deavour to support it from the famous Case of
 the Daughters of *Zelophebad* in holy Writ, which
Moses relates in the Book of *Numbers* (b), they
 brought their Case before *Moses*, *Eleazar* the
 Priest, and the Princes, and all the Congregation,
 and petitioned to have a Possession in the Land of *Ca-
 naan*; why should the Name of our Father be done
 away from his Family, because he hath no Son? give
 unto

(a) *De Repub.* p. 1158. *Regnum Britannorum, &c.*

(b) *Chap.* xxviii. 1---8.

unto us therefore a Possession among the Brethren of our Father. GOD had ordered that the Land should be divided, according as the Children of Israel were numbered; but they not being found in the Number, *Moses* was difficulted, the Case being new, how to determine; and therefore he carried it to the Lord: The Divine Response and Decision was, *Thou shalt surely give them a Possession of an Inheritance among their Father's Brethren, and thou shalt cause the Inheritance of their Father's to pass unto them.* But this Text doth not in the least insinuate, that GOD hath given to Women any Regiment or civil Authority over Men; for GOD elsewhere in his Word has denied it to them in express Terms; that which these Ladies sought of *Moses* was, that they might have a Possession, i. e. a Portion of Ground amongst the Families of their Tribe, the Tribe of *Manasseh*; but they sought no civil Authority over any one Tribe, nor yet over any one Man in *Israel*. Tho' Women may succeed to a Portion of Land enjoyed by their Father, yet there is no Warrant from this Text, that the said Ladies should succeed to any civil Office, which their Father might have had. Further, it is to be observed, that *Zelophehad's* Estate was not to go to the eldest Daughter alone, but to the Daughters in common or Co-partnership, who were five in Number; for it is said, *Thou shalt cause the Inheritance of their Father to pass unto them*; so that if this Text proves any thing, it will prove, that if our Queen *Mary* had as many Sisters as *Zelophehad* had Daughters, the Kingdom of *Scotland* must have passed to them, i. e. it must have been divided amongst them, and so there

X

would

would have been as many Monarchs as there were Sisters, or there would have been no Monarch at all, or but very petty Monarchs, and very petty Kingdoms.

Further, there is a Question about Succession by Proximity, which will puzzle Mr. *Ruddiman* to resolve to any Satisfaction; at least I find some of our greatest Lawyers differing widely about it. The Question is, If the first-begotten Son of the King dies, leaving behind him a Son, while the Grandfather is alive, whether, when the Grandfather dies, the Grandson is to be preferred to the Succession, to his Uncle, his Father's Brother? Or, whether the Uncle, his Father's Brother upon the Death of the Grandfather, should succeed? Here it is askt, who has the Proximity of Blood, and who, by virtue of that Proximity, should succeed? The learned Lawyer, *Craig de Feudis* says (a), "That our Law-book, entituled, "*Regiam Majestatem*, speaks so ambiguously concerning this Point, that it is hard to gather such Authority from it, as is sufficient to confirm the Judgment of any Person." The Author or Publisher of *Regiam Majestatem* says, "That if the first-begotten Son, while his Father is alive, be forisfamiliare, and infest in a Part of his Father's Estate, and dies before his Father, in that Case the Grandson can claim no more of the Grandfather's Estate, than what his Father was infest in; and the other Sons of the Grandfather should succeed in the Order of Age, by virtue of the Proximity of Blood, the Son being nearer than the Grandson."

"*Craig*
(a) P. 428.

Craig again, on the other Hand, says, " That *Forisfiliation* is a Term or Name unknown as " to Heritages, and thinks, that by the *Scottish* " Law, not only the Grandson, but the Grand- " daughter excludes all Uncles : " But I know not where to find this Law ; and the Entail of the Crown at *Air*, whereby *Marjory Bruce* was excluded, makes against *Craig's* Opinion.

Mr. Ruddiman, in his *Preface* to *Mr. Anderson's* *Diplomata*, undertakes to answer the Arguments advanced by *Mr. Atwood* in his Book, entitled, *The Superiority of the Imperial Crown of England, over the Crown and Kingdom of Scotland* ; which Answer I would have taken under my Examination, when I made use of three of *Mr. Atwood's* Arguments, for shewing, that the much boasted of *Parisian* Charter, anno 1564, contains apparent Marks of a Forgery, (which three Arguments I confirmed from p. 98---101.) had I then remembered, that *Mr. Ruddiman* had undertaken to give his Animadversions upon them : And now that I have seen and considered them, I must still be of Opinion with *Mr. Atwood*, that the said Charter contains apparent Marks of Forgery.

The first Argument of *Mr. Atwood*, to which *Mr. Ruddiman* makes a Reply is, " That *Robert*, " when he was but Steward of *Scotland*, and six " Years before he was King, speaks of himself in " the plural Number, we have, *says he*, given, " granted and confirmed, &c." I adopted this Argument, p. 111. because of the Instances of our Kings, *Edgar*, *William* and *David*, who speak of themselves in the singular Number, and the greatest of Subjects. *Walter*, the Son of *Cospatirck*,
and

and others there mentioned, who speak of themselves in the singular : But now since I have read Mr. *Ruddiman's* Answer, I believe him, that as to the eight great Men he mentions, they did speak of themselves in the plural Number, and now am of Opinion, that some great Men did use the plural Number, and others only the singular ; but yet if Mr. *Atwood* and I have erred, Mr. *Ruddiman* has likewise been in a Mistake, who has greater Advantages of knowing Facts in this Matter than I have. Since he says (a), *Nemo, quod sciam, de Scotorum primi ordinis viris, alio ea tempestate quam multitudinis numero, in suis chartis uteretur*, i. e. There is none that I know of the first Rank of Scotsmen, but at that Time did use the plural Number in granting of Charters. The Instances I had assigned, p. 3. clearly shew his Mistake, which I had quoted from Sir *James Dalrymple's Collections*, a Book which Mr. *Ruddiman* has oft perused, and referred to by him in his Annotations on *Buchanan*. *Veniam petimus, damusque vicissim*.

The second Argument brought by Mr. *Ruddiman* out of *Atwood's* Book, I did not adopt : His Argument is in p. 514, " That *Robert* subjects
 " himself and his Heirs to the Bishop of *Glasgow*
 " and his Official ; and because of this *Robert*
 " fancied a Regal Power to put himself and his
 " Heirs under what Bishop he pleased, in what-
 " ever Diocess he or they lived, or should live : " I am of Mr. *Ruddiman's* Mind, that the Charter speaks of no other Bishop, than the Bishop of *Glasgow* ; yet I think that *Robert* fancied a Regal Power

(a) *Pref. Dilpl. p. 39.*

Power in subjecting his Heirs to the Bishop of *Glasgow* and his Official, as to ecclesiastical Censure: Several of them had their Estates in other Parts of the Kingdom, and did not reside in the Diocess of *Glasgow*, they were *extra territorium*, and so not under this Bishop's Jurisdiction: Besides, it is a little too romantick and monkish, in the apparent Heir of a Crown and his Posterity, to be subjected in such a solemn Manner to ecclesiastical Censure, for omitting to pay ten Merks yearly. Monks knew the Trade very well of forging Charters, and clapping in Clauses as they had a-mind.

Atwood's third Argument is, " That the Viscount of *Tarbot* could not by his Search find out the Consanguinity, which put an Impediment to the Marriage of *Robert Stewart* with *Elisabeth Muir*." *Mr. Ruddiman* says, " That this Argument deserves not an Answer ;" and indeed the Answer he gives is not a worthy Answer, but a poor Evasion ; " By this Reasoning, *says he*, it will follow, that whatever was kept secret from that noble Lord, or any other, for 300 Years, must therefore be held to be a Falshood." *Mr. Ruddiman*, I am convinced, will be persuaded of the Insufficiency of this Reply, by reading *p. 98---101*, and some other Pages of this Treatise ; particularly I would fain know from *Mr. Ruddiman*, how it came about that the Charter was kept or registred in the Archives of the See of *Glasgow*, and not the Pope's Bull : This was more proper to be preserved in the Episcopal Register, or kept amongst the Archives of that See. Had this been started to the Earl of *Cromarty*,

Cromarty, *Mr. Sage* and *Mr. Rymer*, they no doubt would have given their Conjectures how this came about, as they have abounded with Conjectures on several Points with Relation to *Robert's Marriages*.

Mr. Ruddiman says, "That *Mr. Atwood's* fourth " Argument plainly surpasseth common Sense." And indeed it does so, as *Mr. Ruddiman* has formed it, viz. that in this Charter there is no Mention made of the Payment of the ten Merks granted towards the Maintenance of the Chaplain : But his Argument is in these Words, *p. 516*. " That the supposed Grant of the ten Merks is " not supported by any Payment, or so much as " colourable Demand." Now, for these three hundred Years, neither the Payment, nor the asking of Payment, has been instructed by any proper Voucher : It is not so much as alledged, that the Register bears any such Thing ; so that *ex post facto* nothing has appeared for vindicating this Donation.

Mr. Atwood's fifth Argument is, " That the " Charter mentions *John* as a Witness, under the " Title of *Lord of Kyle*, when in a Charter placed by *Lord Tarbot* to the Year 1350, fourteen Years before this Charter of the Date " anno 1364, he is stiled *Earl of Carrick*. If he " was *Earl of Carrick* 1350, he could not by a " lower Title be designed *Lord of Kyle* fourteen " Years after." *Mr. Ruddiman* is so good as to acknowledge, that this Argument upon the first View seems to have some Strength ; " But, says " *he*, it rests upon a Foundation altogether false." And *Sir James Dalrymple* says, " That *Atwood's* " Ar-

" Argument discovers his gross Ignorance : " But
 whether it be Ignorance or Falshood, the Igno-
 rance or Falshood is to be ascribed to Lord
Tarbot ; Mr. *Ruddiman* owns this, when he says,
 " That the typographical Error in the Viscount
 " of *Tarbot's* Book, ministred Occasion to *At-*
 " *wood's* erroneous Opinion; in which the Birth
 " of our *Robert III.* is vindicated from the Infamy
 " thrown upon it by most of our Histori-
 " ans." (Mr. *Ruddiman* should have said, all our
 Historians down to the Year 1681.) As to the
 false Foundation that Mr. *Atwood* builds upon,
 Mr. *Ruddiman* says, " It is so far from being true,
 " that this Charter of *David II.* in which *John*
 " the eldest Son of *Robert Stewart*, is called *Earl*
 " of *Carrick*, anno 1350 ; that the Charter was
 " not written till towards the End of 1370, or
 " the Beginning of 1371 ; and so the Charter
 " anno 1364, concerning which the Dispute is,
 " is six Years posterior to that of *David II.*" See
 what I have already advanced, p. 98---100, for
 confirming *Atwood's* fifth Argument. Mr. *Ruddi-*
man, to support his Assertion, or rather Conjecture,
 (if I may so call it) says, " That the Viscount in
 " the 26th Page, speaking of this Charter, says it
 " was written 17th Years before the Death of
 " *Euphemia*, *Robert Stewart's* second Wife, and
 " Queen of *Scotland*. This Number 17, (as it
 " is in Numbers or Figures, a common Thing
 " for Men to fall into a Mistake) the Careless-
 " ness of the Printer changed into 37 ; the noble
 " Lord observed the Error, and corrected it in
 " another Edition of his Book." I have consul-
 ted this Edition, and find that he, p. 13. has
 cor-

corrected his Error ; but says, it was a little one, and complains of Mr. *Sage* for being so heavy upon him, as to say, “ That he could not rely “ with Confidence on what either Lord *Tarbot* or “ his Printer have asserted, they had so weakened “ the Credit of the Narration.” But Mr. *Atwood* observing, that his Lordship had Charters at his Command, thought, that he could with Confidence rely on his Lordship’s Narration ; this made me mention, p. 99, the Charter that the Earl had dated *anno* 1350, as one of *Atwood*’s Arguments to shew the Forgery of the Charter 1364 : But though *Atwood* has too much relied on the first Edition of Lord *Tarbot*’s Book, yet there are other Particulars advanced both by him and me, which carry apparent Marks of Forgery in the *Parisian* Charter of the Date *anno* 1364. Mr. *Ruddiman* adds, “ That unless *Atwood* had a Mind, “ or was inclin’d to dissemble, he might easily have “ found out the Error, from another Passage of “ the Book in p. 24, where the said Earl mentions the said Charter of King *David*, to have “ been a Deed of his, in one of his last Parliaments.” Mr. *Ruddiman*, or his Printer, falls here into a Mistake, I find it not in p. 24th of the Edition, but in p. 53d ; where his Lordship’s Words are these : “ King *David Bruce* his Son in “ one of his last Parliaments, passes a Deed by Way “ of Act, narrating his Father’s Promise and Resolution : And therefore he ratifies the said Promise, and of new grants and confirms to all “ the Bishops of *Scotland* Power and Privilege to “ dispoise their Moveables by Testament ; which “ authentick Deed stands recorded in the Re-

“ cords

" cords of the Great Seal." But how could Mr. *Atwood* discover that the Earl had corrected the Error of changing the Number 17 into 37; for Mr. *Atwood*'s Book was printed at London, anno 1704, and the Earl's new Edition of his Book was not printed till the Year 1713: So that Mr. *Ruddiman* without Ground charges *Atwood* with an Inclination to dissemble. Again, Mr. *Ruddiman*, in his Annotation on Mr. *Sage*'s Introduction, owns, " That the said Charter of King *David* is " not intire; and that unluckily the last Leaf, " which contained the Date, and some of the " Witnesses Names, has been torn out, and that " perhaps near 300 Years ago, and before the " Continuation of *Fordun*, and the *extracta de* " *Chron. Scot.* for both these Books have the " Charter, but wanting the Date and some of " the Witnesses." It is true, that either some of the Witnesses are wanting, or the Name of the last Witness; for the Words are these, *Testibus Roberto Senescallo comite de Stratberne nepote nostro supradicto, Joanne Senescallo de Carrick filio suo primogenito et herede, Thoma comite de Marr, Georgio de Dumbar comite Marchie, Willielmo comite de*. It is plain, that a Part of the Designation of the last Witness is wanting: But how is Mr. *Ruddiman* certain, that other Witnesses are wanting? for there is a legal Number of Witnesses mentioned, and more. He says, that the Charter is torn, because it wants a Date: But how is he sure that ever it had a Date? for the Earl makes Mention of several Charters, which he owns have no Date. And as to the Charter's being torn, he does not pretend, that this is observed by the Continuator

of *Fordun*, nor in the *extracta de Chron. Scot.* If the last Leaf, which contained the Date, and some of the Witnesses Names, has been torn out, I must agree with Mr. *Ruddiman*, that it is unlucky indeed ; for because of these Defects it is not probative. Again, tho' a Charter should narrate a Score of Witnesses, yet if it does not appear, that they did actually subscribe it, it is for that very Reason null and invalid : Now there is not Evidence that any did subscribe it. It is true, what Mr. *Ruddiman* alledges, that the Earl of *Cromarty* conjectures, that the Charter of King *David* was dated seventeen Years before the Death of *Euphemia*, and makes it to be a Deed of his in one of his last Parliaments. Now, to support the Earl's Conjecture, Mr. *Ruddiman*, in his Preface to Mr. *Anderson's Diplomata*, says, " That he often
 " viewed this Charter with his own Eyes in the publick Archives, and affirms, that it is most certain
 " that it is the last of all the Deeds of our *David II.*
 " and that it is recorded after 20 other Charters
 " written in the 41st Year of his Reign ; and
 " consequently that it was written in the Year of
 " Grace 1370 or 1371." But I cannot understand this Alternative 1370 or 1371, which makes it doubtful : For if it is recorded after twenty Charters written in the Year 1371, it cannot be said, or after the Year 1370. Further, it is no Proof at all of the Date of it, that it was written *anno* 1370 or 1371, because it is inserted after these Years, but rather a Proof of the Ignorance of the Recorder : For since it is owned by all to have no Date, it should not have been recorded in any Register whatsoever.

Mr.

(a)
Bruffio
facta,
retur,
veniret

Mr. Ruddiman subjoins the following Words;
Utique cum Edinburgi sit datum anno 1350, exarari non potuit hoc Diploma ab anno quippe 1346, ad 1357, David noster in custodia apud Anglos tenebatur, nullum certe toto eo tempore Edinburgi ordinum regni conventum habuit. And in the Foot of the Page refers to Sir James Dalrymple's Preface to his Collections, p. 36. As to what Sir James advanced, see my Reply, p. 99. As to this Passage, I cannot observe any Accuracy in Mr. Ruddiman; for first he supposes, that the Charter was dated at *Edinburgh*, where our *David* had no Meeting of the States from the Year 1346 to the Year 1357. Now the Charter bears it past at *Perth*; the Words are; *In pleno nostro parlamento tento apud Perth.* 2dly, He says, "That *David* was held a Prisoner in *England* from the Year 1346 to the Year 1357, and consequently could have no Meeting with the States of *Scotland*." But Mr. Ruddiman forgets himself; for in p. 36. of his Preface to Mr. *Anderson's Diplomata*, he owns, that *David Bruce* got Liberty to come to *Scotland* in the Year 1352 (a), to treat with his Nobles about the Payment of his Ransom, and there is no Doubt but he had a Meeting with them, when he came here. Again, Mr. Ruddiman is in a Mistake as to the Year 1352; for Mr. *Rymer*, in his Letter to the Bishop of *Carlisle*, p. 16. says, "That in the Year 1351, 20 Years before
 " *Ro-*

(a) *Ut verum fateamur predicto illo anno 1352, Davidi Bruffio in Scotiam redeundi ab Edw. Anglo potestas est facta, ut de ipsius redemptione cum sua nobilitate colloqueretur, obsidibus interim datis, ut ni de conditionibus conveniret, ipse se in custodiam rursus traderet.*

“ *Robert Stewart* was King, an Agreement was
 “ concluded for *David Bruce* to go into *Scotland*,
 “ &c.” I was at Pains to consult Mr. *Rymer’s*
Fœdera, and in *Tom. 5. p. 722*, it is dated at the
 Tower of *London*, the 4th of *September, 1351*.
 Thus we see Mr. *Ruddiman* contradicts himself,
 and Sir *James* is confuted, who says, “ That King
 “ *David* being a Prisoner in *Edgland* till 1358,
 “ could grant no Charters.”

What remains to be done in Answer to Mr.
Ruddiman, is to consider an Annotation he makes
 at the Foot of the 42d Page of his Preface to the
Diplomata; it is a long one: What is material I
 shall translate. I have, for the most Part, forbore
 to set down Mr. *Ruddiman’s* Passages in the *La-*
tin, because this Treatise has swelled to a greater
 Bulk than I intended: But if Mr. *Ruddiman* shall
 think I have in the least injured him thereby, I
 shall cause publish them in a separate Sheet, which
 these who purchase this Treatise may have gratis.

The Annotation is concerning the Time of *Ro-*
bert’s Marriage with *Elisabeth Muir*; he says,
 “ That *Fordun*, or his Continuator *Bowmaker*, nar-

“ rate, that the Marriage was canonically cele-

“ brated anno 1349;” whose Words he inserts,
 because (as he thinks) they contain a true Nar-
 ration of this Affair. *Iste Robertus copulavit sibi*
unam de filiabus Adæ Mure militis, de qua genuit fi-
lios et filias extra matrimonium, quam postea impetra-
ta dispensatione sedis apostolicæ, desponsavit canonice
et forma ecclesiæ, anno scil. Dom. 1349. This I
 have translated p. 152; see my Remarks there.
 But Mr. *Ruddiman* passeth from the Alternative,
 (or *Bowmaker* the Continuator) this Account he
 says

says, is to be found in all the Copies of the *Scoto-chronicon*, that he hath seen; and herein agrees with *Hearne*, in his *Preface* to his Edition of *Fordun*, p. 176, &c. he says, "That it is agreeable to Truth, that *John*, and many other Sons and Daughters of *Robert Stewart*, were born before the Marriage, whose Consanguinity with their Mother was an Impediment to the Marriage; but it being removed by the Pope's Dispensation, the Marriage was solemnized, according to the received Canons of the Church, anno 1349, and thereby all the Children were legitimate." He rests his Opinion on the Charter anno 1364, which has the many Marks of Forgery.

Fordun, in the above Passage, says, "That the Children were legitimate by a Dispensation granted from the Apostolical Chair;" but the Charter says, That the Bishop of *Glasgow* was delegated to do it.

The next Opinion he gives of the Time of *Robert's* Marriage with *Elisabeth Muir* is *Bowmaker's*, who was Abbot of *Inchcolm*; and it is, that this Marriage was celebrated at length (*demum*) after the Death of *Euphemia*, but not till the Year 1387; this is, says Mr. *Ruddiman*, intirely false, because of the Charter anno 1364; and by this Means, *John* the eldest Son of *Robert Stewart* must have been begotten at least, anno 1337, i. e. 50 Years before the Death of *Eufemia*. This, Mr. *Ruddiman* says, has not so much as the Appearance of Truth; it makes *Robert* greatly stricken in Years, and impotent for Government, to marry *Elisabeth*, now unfavoury, (*effætam*) and deprived of all Beauty.

Mr.

Mr. *Ruddiman* gives a third Opinion, concerning the Time of this Marriage, and it is the Judgment of *Richard Hay* of *Drumboot*, (whom he calls an accurate Inquirer into the Antiquities of his Country) who maintains; " That the Marriage was celebrated, anno 1334, and that it was a just and lawful Marriage from the Beginning ;" but Mr. *Ruddiman* tells us, that the Arguments advanced by him give no Manner of Satisfaction.

Mr. *Ruddiman* mentions a fourth Opinion ; and it is the Opinion of the Reverend Mr. *John Sage*, in his Introduction to *Hautbornden's* Works, who refers the Marriage, p. 41. to the Year 1335, or 1336 ; but Mr. *Ruddiman* remarks, that nothing can be inferred from the Topicks advanced by him ; but that *John, Robert's* eldest Son was born at that Time, but not by a lawful Marriage.

Thus we see the historical Doctors differ greatly in their Opinions ; but all of them are unite in opposing the Sentiment of *Boethius, Major, Lesly* and *Buchanan*, tho' much greater Men than themselves go in with it, as Sir *John Skeen* and Sir *Thomas Murray*, both Clerk-Registers, who, in their *Chronological Tables* agree, that *Eufemia* was *Robert's* first Wife. The Words of the Table are ;
 " *Robert* married first *Eufeme*, Daughter to *Hugh*
 " *Earl of Ross*, who bare unto him *David* *Earl*
 " *of Strathern* ; *Walter* *Earl of Athole*, and
 " *Alexander* *Earl of Buchan*, Lord *Badzenoch*.
 " After her Death, for the Affection he bare to
 " his Children begotten before his first Marriage,
 " he married *Elisabeth Muir* Daughter to Sir
 " *Adam Muir* Knight, who had born unto him
 " *John*

“ *John*, thereafter called *Robert III.* Earl of
 “ *Carrick* ; *Robert* Earl of *Fife* and *Monteith* ; and
 “ *Eufeme* Wife to *James* Earl of *Douglas* ; *John*,
 “ afterward called *Robert III.* succeeded to his
 “ Mother’s Brother, *anno 1371*. He died at *Dun-*
 “ *donald* the 19th Year of his Reign ; so that the
 “ Year of his Death was 1390.” Now, this Ac-
 count, as I observed, was licensed by King
Charles II. to be printed with the Acts of Parlia-
 ment ; and accordingly is printed in Sir *Thomas*
Murray of *Glendoick*, Knight, Clerk to his Ma-
 jesty’s Council, Register and Rolls, his Edi-
 tion in *Folio*, at *Edinburgh*, *anno 1681* ; but the
 Licence or Privilege is granted at *Whitehall*,
May 1st 1680. In his *Duodecimo* Edition, printed
anno 1682, in two Volumes, this *Chronological*
Table is kept out, and likewise the Privilege, for
 what Reason I know not ; probably, because they
 then came to discover the *Stigma* on the Royal
 Line, for which they began to reflect on our
 Historians. With this *Chronological Table*, there
 is printed the Race of our Kings since *Malcolm II.*
Kenneth III.’s Son, wherein *Robert*’s Marriages and
 Children stand in the following Order.

Robert II. the first of the *Stuarts*.

Elisabeth Muir, Daugh-
 ter to Sir *Adam Muir*
 Knight, his second
 Wife.

Eufeme his first Wife,
 Daughter to *Hugh*
 Earl of *Ross*.

His Children by her,

<i>John</i> Earl of <i>Carick</i> , thereafter King by the Name of <i>Robert</i> the Third.	<i>Robert</i> Earl of <i>Fife</i> and <i>Monteith</i> .	<i>Eufeme</i> , Wife to <i>James</i> Earl of <i>Douglas</i> .
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His Children by her,

<i>David</i> Earl of <i>Strathern</i> .	<i>Walter</i> Earl of <i>Arhole</i> .	<i>Alexander</i> Earl of <i>Buchan</i> , and Lord of <i>Bade- noch</i> .
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To conclude, I shall state the Difference and Agreement betwixt Mr. *Ruddiman* and me, with respect to the Wives and Children of *Robert II.* Mr. *Ruddiman* maintains, with some late Writers since the Year 1680, to wit, the Earl of *Cromarty*, Sir *George Mackenzie*, Mr. *Sage*, *George Crawford* and others, that *Elisabeth Muir* was *Robert's* first Wife: Upon the other hand, I assert with our Historians, that lived nearest to the Reign of *Robert II.* to wit, *Boethius*, *Major*, *Lest*, *Buchanan* and *Haulbornden*, *Scottish* Historians; and *Hollinsbed*, *Saunderson*, *English* Historians; Sir *John Skeen* and Sir *Thomas Murray*, two of our celebrated Lawyers, that *Eufeme Ross* was *Robert's* first Wife, none of which was ever suspected to have a Turn to serve by thir Narrations, but *George Buchanan*; the Groundlessness of which I have sufficiently expoted, p. 89, 90, 91. Their Account was universally received, and never avowedly contradicted in Print, till about the Year 1680.

Mr. *Ruddiman* owns, that *Robert II.* had by *Elisabeth Muir John*, (afterwards King, by the Name of *Robert III.*) and many other Sons and Daughters in an unmarried State; herein he and I are agreed; so that they were all Bastards till the Illegitimacy was removed.

Mr. *Ruddiman* maintains, that *Robert II.* and *Elisabeth Muir* were in such Consanguinity to each other, that this was an Impediment to their Marriage, till it was removed by a Dispensation from *Rome*; in this I differ from him, for the Degree of Consanguinity, after all the Scrutiny and Management of the prime Advocates in this Cause, has never been instructed; and after so long a Time,

Time, it is impossible to be clearly documented; the Documents, or rather Inventions and Forgeries for this, are such, as they must be ashamed of them. See p. 98, 100, 101, 105. *et seqq.* The Bishop of *Rome*, and his pretended Delegate the Bishop of *Glasgow* had no just Power to dispense with a Consanguinity forbidden by the Divine Law; in this, I hope, Mr. *Ruddiman* will agree with me. The Fact that the Pope of *Rome* has assumed such a Power to dispense with the Law of GOD, as to the making of Marriages within the Degrees forbidden by the Law of GOD, Mr. *Ruddiman*, I hope, will not deny: If there was a Dispensation granted by the Pope, that *Robert* might marry a Woman within the forbidden Degrees, no Power upon Earth, whether Ecclesiastical or Civil, had a Right to grant it; this being to invade the Throne of GOD, and to assume an Authority above the most High GOD, *the King of Kings, and Lord of Lords*. It was to give a Licence to Sin, nay, to live in a State condemned by the Law of GOD; and this added to his often repeated Acts of Fornication, by begetting many Bastards on *Elisabeth*, can never purge away the Stain or Infamy of Bastardy. Mr. *Ruddiman*, by maintaining that there was a Dispensation procured, doth grant, that the Children begot before the Marriage were Bastards; and so he comes to have his Share in the severe Charge of the Bishop of *Carlisle*, against the best of our Historians, as he calls them, which I have mentioned in his own Words, p. 139. "That they
"vilely represent and report, that *Elisabeth Muir*

Z

" was

“ was only *Robert's* Concubine, when she bare
 “ her Son *John*.

On the other hand, that which I maintain with
 all our best Historians, and our best Lawyers,
Skeen and *Murray*, is, that these Children, which
Robert II. had by an unlawful Coition, and so
 were Bastards, came to be legitimated by his mar-
 rying *Elisabeth* their Mother: *Fordun* says (a),
 “ That *Eufemia* the Queen being dead, the King
 “ married the Lady *Elisabeth*; so by virtue of the
 “ supervenient second Marriage (*virtute superve-*
 “ *nientis matrimonii secundarum nuptiarum legitimati*
 “ *sunt dicti fratres Joannes, &c.*) the said Bro-
 “ thers were legitimated, to wit, *John*, &c.”

Now, can Words make a Thing more plain to
 shew, that *Eufemia* was *Robert's* first Wife, and
 that *Elisabeth* was his second Wife: *John Major*,
 as Sir *James Dalrymple* corrected the Passage, ex-
 pressed the same Thing (b), *Eufemia* the Queen
 being dead, *Robert* took *Elisabeth* to be his Wife,
 and, upon the Account of the Marriage, the Chil-
 dren were legitimated. See the unanswerable De-
 fence of the Correction of the Passage made by
 the Earl of *Cromarty*, from p. 124---126. *Ro-*
bert II. the Father of this *John*, and the Parlia-
 ment, allowed *John* to marry *Elisabeth*, by whom
 he had so many Children, because of the great
 Affection he had for them, as it is expressed in
 the *Chronological Table*, first by *Skeen*, and after-
 wards by *Murray*, which was what *Buchanan* had

wrote

(a) *Scot. Chron. Lib. 14. Cap. ult.*

(b) *Gest. Lib. 4. Cap. 17. Mortua enim Eufemia regina,
 hanc Elisabetham in conjugem accepit, et matrimonii gra-
 tia proles legitimata sunt.*

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wrote before them (a), *Robertus non tam impati-
entia cælibatus, quam amore filiorum ex Elisabetha
Mora prius genitorum, ipsam uxorem duxit*: I said
that the Parliament allowed of the Marriage,
there being no Consanguinity forbidden by the
Divine Law to hinder it; and the Act of Parlia-
ment runs in a stronger Strain of Language, than
any Words that were used in any of the Docu-
ments that are advanced prior to it, to prove
that *Elisabeth* was *Robert's* first Wife; in these he
is simply stiled, *Primogenitus et hæres*; but in the
Act of Parliament it is said, "That the King,
" with the Consent and Assent of the Prelates,
" Earls, Nobles---declares, that when it shall
" happen him, that he, by the Divine Disposition,
" shall depart out of this Life, Lord *John* his
" first-begotten Son, Earl of *Carrick* and Steward
" of *Scotland*, shall be and ought to be his true
" and lawful Heir, and that after his Death,
" shall succeed and ought to succeed to the King-
" dom of *Scotland*, and after him shall sit, and
" ought to sit upon the Throne of his Kingdom."

See the *Latin* of this Passage in p. 152. Now this
Account tends more to vindicate *Robert III.* from
the Infamy of Bastardy, than that which Mr.
Ruddiman gives, and the modern Accusers of our
Historians; for he and they own, that *Robert III.*
was a Bastard, before his Father married *Elisa-
beth* his Mother; that his Father and Mother
married when there was a lawful Impediment,
viz. Consanguinity forbidden by the Divine Law,
which was to add Wickedness to their Sin; It
makes not only the Parties to sin greatly, but the
Pope

(a) *Hist.* p. 168.

Pope presumptuously to sin, by usurping a Power above the Prerogative of GOD; so that the Infamy is not wiped off. But the Case, as I have stated it, stands thus, *John* was a Bastard by an antinuptial Fornication, which no doubt was a Sin in his Parents, Repentance and Pardon can only free from the Guilt. They some time after were married, there being no Consanguinity to hinder the Marriage, and there is nothing more commonly practised, the best Way to redress the Injury done to the Woman, being to marry her; and though this doth not remove the Guilt, yet the Scandal is, in some Measure, thereby removed.

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P O S T S C R I P T.

IN the Treatise I have taken Notice of a Variety of Conjectures made by the Earl of *Cromarty*, Mr. *Sage* and Mr. *Rymer*, whereby they have attempted to account for the Narration that is given by our Historians, concerning *Robert's* Wives and Children; upon all which I have made my Remarks: But there is another given by Mr. *Rymer*, which I had forgotten to mention, namely (a), peradventure, when the Murder of King *James I.* by the Sons of *Eupheme* was resolved upon, in order to give some Colour to so horrid a Fact, the Story of *Elisabeth Muir* was contrived; they gave out, that the Descendents from her were not lawfully begotten; and yet these were preferred in the Succession to the Crown, and these of *Euphemia Ross* were set aside; and these being her lawful Issue, therefore they resented it upon King *James I.* Thus the Murderers of that excellent Prince, and their Accomplices, are charged with the Contrivance, having this Turn to serve; but our Historians had none; nor have their Accusers been able to advance any thing to make it probable, that they had. This Conjecture frees *Russel*, whom Mr. *Ruddiman* had charged as the Contriver at first.

I observed in Page 154, that Mr. *Ruddiman* had fallen into a Mistake about the Use of the plural Number, by Subjects of the first Rank, as much as Mr. *Atwood* had erred, when he says, that there are none of the first Rank of *Scotsmen* he knows,
but

(a) Let. p. 11.

but at that Time did use the plural Number in granting of Charters. This is a Piece of great Forgetfulness: For in Mr. *Anderson's* Book of Charters, to which he had prefixt his useful and curious Preface, I find no less than fifteen Charters, wherein the great Men, the Granters, speak of themselves in the singular Number, Sir *William Wallace*, who is famous in our History, being excepted, when he was *Viceroy*, as he styles himself in the Charter.

I said in Page 150, that it seems there is another Edition of Sir *George MacKenzie's Jus regium*, which Mr. *Atwood* has seen, that contains the said Postscript: But having made further Search, I have fallen upon another Copy, which agrees with mine *in omnibus*; and though at first View, one would think them both to be imperfect, yet, having compared them together, as to the binding, I cannot observe that any Part is torn out of them: So that I am now apt to conclude, that there is no other Edition besides this, and the Folio one printed in the late Edition of all his Works in two Volumes in Folio.

F I N I S.

E R R A T A.

Page 27. Line 10. for *twelve* read fourteen. P. 28. Marg. L. 2. for *inducernt* r. *induceretur*, L. 3. for *accessiur* r. *arcessiur*. P. 37. Marg. for *Regnum* r. *Regum*. P. 46. Marg. L. 5. for *supere* r. *subjicere*. P. 49. L. 23. for *Father Brother's* r. *Father's Brother*. P. 56. L. 9. dele it. P. 59. for *Historians* r. *Jacobites*. Marg. L. 2. for *libros* r. *liberés*. P. 60. Marg. for *mali* r. *male*. P. 61. Marg. for *improvido* r. *improvidi*. P. 82. Marg. L. 2. for *collega* r. *collegio*. P. 83. L. 19. for *consideratus* r. *consideratis*. P. 84. L. 23. for *quantum* r. *quantum*. P. 85. L. 13. for *desicerimus* r. *defecerimus*, for *desiceret* r. *defecerit*. P. 87. L. 7. for *Wife* r. *Miss*, L. 8. for *Miss* r. *Wife*. P. 112. L. 9. for *agerit* r. *ageret*. P. 129. for *metioned* r. *mentioned*.

